THIRTEENTH ANNUAL REPORT

OF THE

Board of Railroad Commissioners

OF THE

STATE OF NEW YORK,

FOR THE YEAR 1895.

TRANSMITTED TO THE LEGISLATURE JANUARY 8, 1896.

COMMISSIONERS:

SAMUEL A. BEARDSLEY, | MICHAEL RICKARD,
ALFRED C. CHAPIN.

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THIRTEENTH ANNUAL REPORT

OF THE

Board of Railroad Commissioners on the Railroads of the State.

STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS,
ALBANY, *January* 8, 1896.

To the Honorable the Legislature of the State of New York:

Pursuant to the requirements of the Railroad Law, the Board of Railroad Commissioners herewith submits its thirteenth annual report.

CHARLES R. DEFREEST,

Secretary.

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REPORT.

STATE OF NEW YORK:

BOARD OF RAILROAD COMMISSIONERS,
ALBANY, *January* 8, 1896.

To the Honorable the Legislature of the State of New York:

Pursuant to the requirements of the Railroad Law, the Board of Railroad Commissioners submits its thirteenth annual report.

General Situation.

The condition of depression in business existing at the time of the publication of the last annual report continued through the greater part of the fiscal year, the transactions of which are covered by this report. The history of the past twelve months has fully sustained the view of the situation taken by the Board a year ago. A revival in business began in the spring of 1895. The western roads, which had first suffered and to a greater extent than the roads of this State from the business depression, were the first to profit by the recovery. The roads of this State did not feel its effects until the last quarter of the year, and then in freight business only. The gain has been more pronounced since July 1, 1895, and the operating results of the quarter beginning with that date are nearly equal to those of the corresponding quarter of 1893, which was a fairly prosperous year. From an analysis of railroad earnings, a very fair and accurate idea of business conditions can always be obtained. The summary of the past year affords much ground for encouragement. The increase in freight traffic has been general. All of the roads in this State have been affected, and all show increased earnings. The passenger traffic has not increased, and the conclusion reached from these facts is that while business is better, it is not enough better to warrant a

return to normal conditions in business or pleasure travel. On the whole, it may be said that while conditions are better than they were a year ago, and the anticipation of continued improvement is warranted by the outlook, we cannot yet be assured of having passed the danger point. Financial and foreign complications are threatening and disturbing elements, and we will not emerge from the depression of 1894 and 1895 to former prosperous conditions until these are settled.

Summary of Business of the Year.

The business of the year ending June 30, 1895, shows a slight increase over 1894 in net as well as gross results. Railroads were not affected by the revival of business until the last quarter of the year, and the gain in gross earnings from operation for the first three months of the present year was more than treble that of the preceding twelve months. The increase of earnings for 1895 was $1,241,039.77; decrease in operating expenses, $702,970.56; increase in net earnings from operation, $1,944,010.33. The decrease in net earnings for 1894 was $4,364,171.38, while the decrease in income from operation that year was $10,399,511.83, showing that $6,035,340.45 of the loss was made up by a reduction in operating expenses which have, therefore, been reduced nearly seven millions of dollars since June 30, 1893. Capital stock shows a decrease this year of $12,812,614.01; cost of road and equipment, decrease, $19,672,129.58; funded debt, decrease, $1,264,021.46; unfunded debt, increase, $13,941,656.51. The changes in capital stock, funded debt and cost of road and equipment are due to re-organizations and consequent re-adjustments resulting in depreciation credits to assets. The percentage of dividends declared on capital stock is 2.63 against 2.69 in 1894. The decrease in number of passengers carried during 1895 was 1,262,175, and in the number carried one mile, 711,863,058. This is in part accounted for by the World's Fair traffic reported for the year ending June 30, 1894. Freight business, on the other hand, shows an increase of 1,475,777,099 in the number of tons carried one mile.

On the whole, the figures for 1895 are indicative of returning

prosperity and warrant anticipation of much more favorable results in 1896. In the second volume of this report will be found in detail the earnings and expenses of the individual companies from which these comparisons are made. A comparative summary of the business of 1894 and 1895 is given in the following table:

	For year ending June 30, 1894.	For year ending June 30, 1895.
Gross earnings from operation	$197,957,315 47	$199,198,355 24
Operating expenses	137,040,574 21	136,337,603 65
Net earnings from operation	60,916,741 26	62,860,751 59
Income from other sources	7,584,135 38	7,128,186 83
*Interest paid and accrued	32,270,493 56	31,110,172 99
Taxes	7,365,336 77	7,862,480 98
Miscellaneous	2,012,993 32	2,843,703 36
*Dividends declared	19,798,009 06	19,079,343 68
Surplus	d. 2,017,654 09	147,338 54
Capital stock	737,878,692 77	725,066,078 76
Funded debt	733,627,524 78	732,363,503 32
Other liabilities	85,418,795 79	99,360,452 30
Cost of road and equipment	1,411,249,576 45	1,391,577,446 87
Percentage of gross income to cost of road and equipment	04.85	05.03
Percentage of net income to capital stock	02.43	02.65
Percentage of dividends to capital stock	02.69	02.63
Miles of road in New York State main line	7,991.73	8,032.19
Tons of freight carried one mile	16,373,354,932	17,849,132,031
Average freight earnings per ton per mile (cents)	0.766	0.735
Average freight expenses per ton per mile (cents)	0.537	0.476
Average freight profit per ton per mile (cents)	0.229	0.259
Passengers carried one mile, exclusive of elevated roads	3,751,553,970	3,040,238,561
Average earnings per passenger per mile (cents)	1.93	2.23
Average expenses per passenger per mile (cents)	1.31	1.69
Average profit per passenger per mile (cents)	0.62	0.54

* Includes respectively interest and dividends paid by lessors from rental received from lessees as follows:

	1894.	1895.
Interest	$9,174,188 39	$8,854,918 87
Dividends	4,199,470 11	4,136,277 89

d. denotes deficiency.

The foregoing statements relate only to steam surface roads.

The following is a condensed statement of the reports of the street surface roads:

	For year ending June 30, 1894.	For year ending June 30, 1895.
Capital stock	$88,261,928 80	$89,693,580 00
Funded debt	77,574,729 84	80,180,423 57
Unfunded debt	9,216,834 18	12,056,519 74
Cost of road and equipment	161,007,474 56	170,647,265 89
Gross earnings from operation	23,911,025 56	25,477,227 44
Operating expenses	15,418,847 88	16,628,451 85
Net earnings from operation	8,492,177 68	8,848,775 59
Income from other sources	576,021 93	942,960 60
Taxes and miscellaneous	1,000,211 48	1,095,472 40
Interest	2,367,060 00	2,911,115 51
Rentals	3,301,896 73	3,620,245 50
Dividends	1,577,107 00	1,993,772 75
Surplus for the year	812,997 18	171,130 03

Comparison of Quarterly Reports.

A comparison of the receipts and expenditures, exclusive of dividends, of the principal roads operating in this State and representing four-fifths of the total mileage, for the quarters ending September 30, 1894 and 1895, shows a gratifying increase of business in favor of 1895. The increase in gross earnings from operation was $3,940,915.91 and in operating expenses $2,165,698.34, making an increase in net earnings from operation of $1,775,217.57. The total receipts and disbursements show an increase of $3,956,-275.26 in receipts and $2,466,032.15 in disbursements, making an increase in net income to be passed to the dividend-paying account of $1,490,243.11. Only one road shows a deficit in operation expenses and three roads show a deficit in total expense. The Erie road gains over $190,000 in the net result and the New England road changes from a net deficit of $66,000 in 1894 to a surplus of nearly $70,000 in 1895. The following tables, which show in detail these comparisons, indicate generally that the business for this quarter of 1895, was about equal to that of the corresponding quarter of 1893, when the World's Fair traffic was at its height:

COMPARISON of quarterly reports of principal roads operating in New York State for the three months ending September 30, 1894, and September 30, 1895.

d Denotes deficit.

ROAD.	1894.			1895.		
	Gross earnings from operation.	Operating expenses.	Net earnings from operation.	Gross earnings from operation.	Operating expenses.	Net earnings from operation.
Boston and Albany	$2,330,354 83	$1,467,391 89	$862,962 94	$2,490,049 01	$1,520,909 47	$969,139 54
Buffalo, Rochester and Pittsburg	840,140 12	557,095 59	283,044 53	826,787 73	550,658 76	276,128 97
*Delaware and Hudson	2,025,654 55	1,078,949 54	946,705 01	2,121,311 34	1,176,696 54	944,614 80
Delaware, Lackawanna and Western	2,270,459 68	1,056,682 50	1,213,777 18	2,505,010 37	1,093,749 58	1,411,260 79
Elmira, Cortland and Northern	122,456 36	66,482 64	55,973 72	114,654 11	66,710 27	47,943 84
Elmira and Lake Ontario	155,548 78	141,547 31	14,001 47	158,877 45	185,358 62	d 26,481 17
Elmira and Williamsport	252,864 26	172,122 07	80,742 19	214,484 01	197,265 69	17,218 32
Fall Brook	163,991 84	68,568 07	95,423 77	185,126 60	94,828 88	90,297 72
Fitchburg	1,894,424 55	1,207,336 74	687,087 81	1,993,598 66	1,321,647 75	671,950 91
Long Island	1,405,472 23	771,996 28	633,475 95	1,438,494 71	769,985 69	668,509 02
Lake Shore	4,892,058 53	3,172,918 14	1,719,140 39	5,502,470 02	3,575,898 80	1,926,571 22
New Jersey and New York	94,953 92	79,879 35	15,074 57	105,125 49	77,119 81	28,005 68
New York Central and Hudson River	10,341,561 51	6,694,758 66	3,646,802 85	11,006,568 02	7,272,924 25	3,733,643 77
New York, Chicago and St. Louis	1,430,603 43	1,048,958 14	381,645 29	1,576,067 71	1,177,207 69	398,860 02
† New York, Lake Erie and Western	6,519,615 65	4,986,512 68	1,533,102 97	7,265,790 74	5,046 450 00	2,219,340 74
‡ New York and New England	1,440,615 05	1,031,397 88	409,217 17	1,641,170 49	1,113,384 31	527,786 18
New York, New Haven and Hartford	7,237,015 61	4,485,716 44	2,751,299 17	8,322,255 70	5,023,953 03	3,298,302 67
New York, Ontario and Western	1,057,170 00	674,407 00	382,763 00	1,038,931 00	656,814 00	382,117 00
Ogdensburg and Lake Champlain	216,837 66	154,923 66	61,914 00	222 857 05	138,822 20	84,034 85
Staten Island Rapid Transit	380,989 16	185,501 80	195,437 36	294,002 87	144,661 50	149,341 37
Syracuse, Binghamton and New York	256,266 37	134,174 98	122,091 39	263,829 59	119,517 49	144,312 10
Syracuse, Geneva and Corning	168,009 55	108,654 07	59,355 48	173,199 14	110,686 92	62,512 22
Western New York and Pennsylvania	954,307 53	575,685 28	378,622 25	931,575 27	652,117 80	279,457 47
Totals	$46,451,321 17	$29,921,660 71	$16,529,660 46	$50,392,237 08	$32,087,359 05	$18 304,878 03

SUMMARY.

	Quarter ending Sept. 30, 1894.	Quarter ending Sept. 30, 1895.
Gross earnings from operation	$46,451,321 17	$50,392,237 08
Operating expenses	29,921,660 71	32,087,359 05
Net income from operation	$16,529,660 46	$18,304,878 03
Increase in income from operation, 1895		$3,940,915 91
Increase in operating expenses, 1895		2,165,698 34
Increase in net income from operation, 1895		$1,775,217 57

* Includes all roads leased by Delaware and Hudson Canal Company in this State.

† Now the Erie Railroad Company.

‡ Two months of 1895 under Receiver as New York and New England, one month as reorganized New England.

COMPARISON of quarterly reports of principal roads operating in New York State for three months ending September 30, 1894, *and September* 30, 1895.

d Denotes deficit.

Road.	1894. Income from all sources.	1894. Total expenses.	1894. Net income.	1895. Income from all sources.	1895. Total expenses.	1895. Net income.
Boston and Albany	$2,330,354 83	$1,640,010 16	$690,344 67	$2,490,049 01	$1,663,249 05	$826,799 96
Buffalo, Rochester and Pittsburg	847,424 59	776,246 11	71,178 48	834,219 45	767,013 91	67,205 54
Delaware and Hudson	2,025,654 55	1,765,424 58	260,229 97	2,121,311 34	1,863,083 61	258,227 73
Delaware, Lackawanna and Western	2,270,459 68	1,677,431 50	593,028 18	2,505,010 37	1,714,498 58	790,511 79
Elmira, Cortland and Northern	122 563 89	97,447 05	25,116 84	115,571 40	103,585 65	11,985 75
Elmira and Lake Ontario	155,548 78	150,356 57	5,192 21	158,877 45	195,240 61	d 36,363 16
Elmira and Williamsport	252,864 26	215,781 46	37,082 80	214,484 01	239,394 87	d 24,910 86
Fall Brook	178,504 66	78,648 70	99,855 96	246,657 51	97,846 51	148,811 00
Fitchburg	1,909,003 73	1,585,670 48	323,333 25	2,010,688 44	1,641,628 46	369,059 98
Long Island	1,471,869 38	1,060,581 39	411,287 99	1,505,094 87	1,065,123 39	439,971 48
Lake Shore	5,027,160 02	4,313,019 63	714,140 39	5,650,367 68	4,728,796 46	921,571 22
New Jersey and New York	94,953 92	92,437 19	2,516 73	105,125 49	90,642 62	14,482 87
New York Central and Hudson River	10,840,821 99	9,744,910 86	1,095,911 13	11,600,505 57	10,376,074 03	1,224,431 54
New York, Chicago and St. Louis	1,432,252 51	1 331,900 92	100,351 59	1,577,491 86	1,462,650 68	114,841 18
New York, Lake Erie and Western	6,753,743 51	6,955,994 37	d 202,250 86	7,307,422 53	7,319,485 23	d 12,062 70
New York and New England	1,441,824 45	1,507,854 03	d 66,029 58	1,643,340 40	1,573,943 82	69,396 58
New York, New Haven and Hartford	7,259,678 05	5,864,170 06	1,395,507 99	8,385,800 95	6,597,287 77	1,788,513 18
New York, Ontario and Western	1,076,010 00	907,294,00	168,716 00	1,057,771 00	888,266 00	169,505 00
Ogdensburg and Lake Champlain	217,290 97	222,599 47	d 5,308 50	224,492 95	206,362 19	18,130 76
Staten Island Rapid Transit	380,939 16	268,602 22	112,336 94	294,002 87	214,638 86	79,364 01
Syracuse, Binghamton and New York	256,266 37	179,079 98	77,186 39	263,829 59	164,422 49	99,407 10
Syracuse, Geneva and Corning	168,009 55	166,718 19	1,291 36	173,199 14	170,685 31	2,513 83
Western New York and Pennsylvania	954,523 28	885,978 09	68,545 19	938,683 51	810,269 06	128,414 45
Totals	$47,467,722 13	$41,488,157 01	$5,979,565 12	$51,423,997 39	$43,954,189 16	$7,469,808 23

SUMMARY.

	Quarter ending Sept. 30, 1894.	Quarter ending Sept. 30, 1895.
Income from all sources	$47,467,722 13	$51,423,997 39
Total expenses	41,488,157 01	43,954,189 16
Net income	$5,979,565 12	$7,469,808 23

Increase in gross income 1895	$3,956,275 26
Increase in gross expenses 1895	2,466,032 15
Increase in net income 1895	$1,490,243 11

Legislative Enactments.

The various legislative enactments during the year affecting railroads and relating to subjects within the jurisdiction of the Board, will be found in full in their proper place in this volume. The most important amendments were, the application of section 59 to all railroad corporations organized under the laws of this State, by the elimination of so much of the section as has heretofore exempted street-surface railroads from its provisions; the addition to section 90, authorizing street-surface railroads to take private property outside of city limits for railroad purposes by condemnation, and the change in section 91, providing that the consent of the owners of two-thirds in value of property, outside of city and village limits, along which it is proposed to construct a street-surface railroad, must be obtained, instead of one-half, as heretofore. The Legislature also passed a general act extending all railroad charters which would otherwise expire to January 1, 1900, in case the railroad company has acquired one-third of its right of way or has begun construction; several acts prescribing the qualifications of engineers, motormen, gripmen and telegraph operators who have to do with the moving of trains; an act providing that all railroad companies operating 100 miles or more of railroad must issue 1,000-mile mileage books at a rate of two cents a mile; an amendment to section 77 of the Railroad Law, making applicable the provisions of that section to railroads sold under mortgage foreclosure by judgment or decree of a court of the United States sitting in this State, as well as a court of this State, and the addition of a new section to the Railroad Law, to be known as section 84, extending the provisions of the Railroad Law to the consolidation, lease, sale, or reorganization of companies heretofore or hereafter organized under the laws of this State and any other State or country, to build, lease, buy, sell, maintain or operate any line of railroad to be located and constructed in any foreign country.

References, Complaints and Applications.

The Board during the past year has considered and disposed of a greater volume of business than in any previous year of its existence. Meetings have been more frequent; many of the cases considered have been of unusual importance to both public and private interests, and in several instances appeals have been taken to the courts to review the determinations of the Board. Thus far the Board has been sustained by the General Term of the Supreme Court in every appeal in which a decision has been handed down. Appeals in three cases are now pending, and the Board has notice of other cases that are likely to be carried to the courts. Elsewhere in this volume will be found in full all opinions and decisions of the Board, together with the decisions of the courts in cases in which a determination has been reached.

Among the cases considered and disposed of by the Board during the year may be enumerated: References from the Governor, 1; complaints of railroads, cities, towns and individuals, 43; applications to use the overhead trolley system, 16; for increase of capital stock, 13; for certificate under section 59 of the Railroad Law, 11; for permission to cross tracks of other railroads at grade, 2; investigation of trolley accidents, 7; applications for approval of crossing sign, 1; for abandonment of part of route, 3; for approval of change of name of company, 1; for permission to change gauge, 2; approval of cooking ranges in cars, 2; for permission to change location of station, 2; for establishment of new station, 1; to discontinue full stop at crossing, 1; for exemption in the matter of air brakes, 1; decisions in accident cases on steam roads, 7. In addition to the above, 518 inquiries, covering all matters relating to railroad management and operation, were given required attention and investigation, and a large and constantly increasing volume of general correspondence has been promptly disposed of. The work of the Board has not been permitted to get in arrears, as will be seen from the small number of cases pending at the close of the year. In the matter of complaints of cities, towns, and individuals, the railroad companies have, as a rule, promptly complied with all

recommendations of the Board, in many cases the railroad companies recognizing the justice of the complaints upon presentation and voluntarily removing the cause thereof. There was not a case during the year requiring the intervention of the Attorney-General to enforce the recommendations of the Board.

Rates.

There were no cases before the Board of any importance during the year ending June 30, 1895, regarding overcharges in the matter of freight transportation. The few complaints presented were either amicably adjusted or were found upon investigation to be without merit. Three complaints have been made relative to passenger charges. One was against the Manhattan Elevated Railway Company of New York, disputing the right to collect a five-cent fare from passengers riding on the New York, New Haven and Hartford cars between the Willis avenue station on the latter road and the One Hundred and Twenty-ninth street station on the elevated road. The Board decided the case adversely to the complainants, and this decision is to be reviewed by the courts. The second case was against the Staten Island Rapid Transit Railroad, relative to alleged overcharge and the giving of rebate tickets to be redeemed within an hour after receipt. This case is still pending, but is likely to be amicably settled. The third case was against the Pelham Park and City Island Surface Street Railroads of New York city for charging a ten-cent fare. The complainants contended that the companies were practically indentical in organization and operation and that they returned to a pretended separate existence in August last, to avoid the consequences of the Pelham Park Act, the act annexing a part of Westchester county to the city of New York, and the act prohibiting the charging of more than five cents within the limits of a city or incorporated village. The companies admitted changing the method of operation as alleged, but claimed continuous separate existence, and that the question of fare was not affected by the park act or the annexation act. The Board, not passing upon the question of separate existence or method of operation

of the defendant companies, dismissed the complaint on the ground that neither the act by which the city of New York acquired what is known as Pelham Park, or the annexation act of 1895, had the effect of compelling the defendant company or companies to charge but a single fare of five cents. It is understood the complainants will take steps to have the decision reviewed by the courts. The questions involved in this case are new and somewhat novel, and a determination of the effect of the annexation act and of the park act upon the rate of fare by railroads brought within the city limits by said acts is desirable.

Joint Traffic Association.

In this volume will be found in full the articles of organization of the new Joint Traffic Association, which were adopted by the thirty-one trunk lines that are parties thereto on November 19, 1895, and went into effect on January 1, 1896. The objects of the organization as set forth in the agreement are "to co-operate with each other and adjacent transportation associations to establish and maintain reasonable and just rates, fares, rules and regulations on state and interstate traffic, to prevent unjust discrimination and to secure the reduction and concentration of agencies and the introduction of economies in the conduct of the freight and passenger business."

The effort to amend the fifth section of the Interstate Commerce Act so as to legalize pooling having failed, the above mentioned agreement has been entered into as the best possible substitute in view of the restrictions of existing laws, it having been carefully prepared, so it is claimed, to avoid conflicting with or violating any national or state laws. Upon the subject of pooling this Board replied to an inquiry of the Interstate Commerce Commission, on November 22, 1892, as follows: "This Board considers it both advisable and practicable to amend the fifth section of the Act to Regulate Commerce, so as to legalize such contracts between existing roads as would tend to diminish unlawful discrimination and preference of rates and to maintain legally authorized and reasonable rates. It feels that the prohibition of pooling should be repealed

and that the practice should be permitted under the supervision of the Interstate Commerce Commission."

Nothing has occurred to alter the opinion then expressed, and the Board believes that if the purposes of the Joint Traffic Association are strictly carried out much benefit will accrue to shippers through the maintenance of uniform and stable rates and that the railroad companies will secure greater economy in management.

Physical Condition of Railroads.

The railroads of this State are constantly improving in the matter of permanent maintenance of way, and, notwithstanding the financial depression, many betterments were added upon all the main lines during the year looking to increased safety in transportation.

The danger of facing switches is being eliminated as rapidly as possible upon all the principal roads. The practice of spiraling and relining curves by instrument is receiving greater attention, as is also the proper elevation of outer rails. The old "rule-of-thumb" method of adjusting curves has given way to modern scientific formula, and the principal roads are placing and keeping curves in better adjustment for speed of trains. Derailing switches are coming into more general use upon spur lines and sidings having a down grade to the main track, and another year will no doubt see all the roads fully equipped in this very important particular. Many of the single-track roads are making dead ends where feasible on sidings, thereby reducing to a minimum the facing switch evil. Clearance marks at switches are being placed by many of the roads. Interlocking and safety devices are rapidly being put in at dangerous points, the improvement in this direction being particularly noteworthy during the past year.

The tendency toward the use of heavier rail is noticeable upon all the principal lines. Eighty pounds per lineal yard is not now considered of extra weight. Ninety and 100-pound rails are in

use to a considerable extent, particularly at stations and where the traffic is unusually heavy, and in the near future the latter will probably be the standard weight upon all passenger tracks of the trunk lines which operate fast trains.

Tie-plates have been used extensively during the past year with good results. In the use of ballast there is a wide difference of opinion as between broken stone and good gravel. In some instances roadmasters, who have had experience with both, strongly favor gravel of walnut size, contending that it furnishes an easier roadbed for traffic and is not so expensive to keep in first-class condition. The strongest argument in favor of broken stone is the increased comfort to passengers by the avoidance of dust.

A number of steel superstructures have taken the place of wood the past year. Open-hearth steel is now used for structural purposes upon all the principal lines, and great care is being taken to insure the strongest available construction. Rolled I-beams have been utilized for minor openings to a considerable extent. Built beams are stronger and more positive and should be used instead of the rolled beams. Considerable trestlework has received attention, and many of these troublesome and dangerous structure have, upon the recommendation of this Board, been completely filled in; others, where filling is impossible, have been rebuilt, notably on the New York, Ontario and Western Railroad, where one new steel trestle of 850 feet has been erected and another of 1,000 feet is in course of construction.

A few of the roads still retain stub switches. The Board recommends their speedy removal and the substitution of split point or some other safety switch, as required by the Railroad Law.

Generally speaking, the railroads of this State are abreast of the times in the use of all recognized safety devices, both in maintenance of way and equipment of rolling stock. The best evidence of this fact is shown by the comparison under head of accidents between the statistics of this State and those of the State of Pennsylvania.

Old Lyon Brook Viaduct, New York Ontario and Western Railway. Length, 820 Feet; Maximum Height of Towers, 150 Feet; Twenty-four Spans, 30 Feet Each; One Span, 100 Feet; Built 1869.

New Lyon Brook Viaduct, New York, Ontario and Western Railway. Three Spans, 80 Feet Each; Four Spans, 60 Feet Each; Two Spans, 50 Feet Each; Eight Spans, 30 Feet Each; Height, 150 Feet; Built of Steel in 1894.

Grade Crossings.

During the year sixty-four persons were killed and eighty injured at grade crossings, a decrease of thirty in the number killed and fifteen in the number injured, as compared with the preceding year. This is an indication that the persistent efforts of this Board in the direction of greater security at grade crossings are producing beneficial effects.

The enactment of a comprehensive statute for the gradual abolition of all grade crossings in the State under direction of some constituted authority, and the prevention of the establishment of additional grade crossings, either in the construction of new railroads or the laying out of new highways, has been annually recommended in the reports of this Board to the Legislature since the creation of the Board of Railroad Commissioners, and there has been practically no modification of the views expressed by the various members of this Commission regarding either the necessity for such a law or the general method to be employed to carry the proposed reform into effect. While the Board has persistently urged legislation upon this subject, last year was the first occasion when a bill prepared by the Board and covering the entire subject was presented to the Legislature for its consideration. The bill was introduced in both Senate and Assembly by the chairmen of the respective railroad committees of the two houses, and several joint hearings were had which were participated in by the members of the Board and by representatives of the various railroad companies of the State. There were no differences of opinion regarding the necessity for the proposed law, and the only objection presented by the representatives of the various railroad companies was as to the proportion of expense to be paid by the railroads in the change of existing grade crossings.

With respect to this phase of the subject, the recommendations heretofore made and the bill itself, reproduced elsewhere in this volume, fairly represent the present views of the Board. The slight difference of opinion between the members of the

Board and the representatives of the various railroad companies regarding the apportionment of expense can be very easily and satisfactorily settled by the Legislature, and should not prevent immediate and favorable action upon the grade crossing question.

In its last report the Board expressed itself as follows upon the subject:

As a whole, it may be said that the bill now submitted is drawn after careful study of measures which have produced good results in other States, and the Board is not aware of any existing condition in this State which would prevent its successful operation here. It may be proper to again reiterate what has been said in the earlier pages of the report, that there is full recognition by the Board of the peculiar difficulties now surrounding the companies, and of the consequent necessity of pushing such a measure as this with extreme consideration. Former reports indicate that the Board has always recognized that the improvement involved in a general abolition of existing grade crossings is one of great magnitude, and for that reason the Board has always suggested that it should be carried on gradually rather than rapidly. It is, however, desirable to embody the proposition in legislation and to make a beginning. This State has reached so advanced a stage in its material development that its existing enterprises and institutions must be regarded as permanent. They must, therefore, be slowly but surely established upon substantial and enduring foundations. Great works, whether public or private, must be completed in a manner befitting the final and lasting character which we believe our State is to assume. The construction of railroads may have been hasty or imperfect in ruder days. At present, it can only fit the later condition of the general community when brought to a state as nearly approaching perfection as is practicable. The change from the cheap and destructive grade crossing to a substantial and safe form of crossing over or under the public highway, is an important step toward the form which the railways of the State are to assume. In many particulars the companies show full appreciation of their obligations. They have vastly improved their structure both for purposes of safety and to afford comfort to travelers. The contrast between their present appearance and condition with those of even ten years ago is striking and admirable.

The Board is also of the opinion that where an electric railroad proposes to cross an existing steam railroad there should not be a grade crossing, and has incorporated a section in the bill with this view.

Automatic Couplers and Air Brakes.

Nothwithstanding the effect of the financial depression upon railroad earnings, only one road made application last year for exemption from the operation of the laws of 1893, requiring a certain proportion of freight cars to be equipped with automatic couplers and air brakes each year. Of the 241,844 freight cars owned in this State, 51,136 are now equipped with air brakes and 116,094 with automatic couplers of the most approved type. Few freight trains are now made up that do not contain a sufficient number of cars equipped with air brakes to enable the engineer to control the train in case of emergency. The decrease in the number of casualties to employes is largely due to the adoption of these improvements. This Board first called attention to the necessity for legislation upon this subject in 1887, but suggested, in order to secure uniformity in the use of couplers, that the Interstate Commerce Commission should appeal to Congress for the passage of a general law. The matter was subsequently taken up by the Interstate Commission, and the Master Car Builders' Association of the United States having approved of a form of interchangeable coupler, Congress passed a law in 1893 requiring all freight cars used for interstate commerce to be equipped with automatic couplers by January 1, 1898, and that on and after the same date a sufficient number of cars of each train to permit the engineers to control the speed of the train must be equipped with power train brakes. The same act also provided that after July 1, 1895, all cars used in interstate commerce must be equipped with grab irons or hand holds in the ends and sides of each car for greater security to men in coupling and uncoupling cars. The agents of the Interstate Commission began inspection of trains under this section soon after it went into effect, and several freight trains in this State were detained in transit because not fully equipped with grab irons, and held until the law was complied with.

The coupler and air brake acts of this State were prepared by this Board to conform with the act of Congress, but were more explicit in their requirements. The coupler act requires that all

new cars shall be equipped with automatic couplers and that twenty per centum of all cars owned shall be so equipped annually. The act in relation to air brakes requires that ten per centum of all cars owned shall be equipped with air brakes annually. The result must be the equipment of all freight cars owned in the State with automatic couplers by January 1, 1898, and with air brakes by January 1, 1903.

Strengthening Cars.

The tendency is still in the direction of greater strength in the construction of passenger cars, to enable them to better withstand the shock of collision and accident. The Master Car Builders' Association has under consideration the advisability of running the longitudinal sills the entire length of the car, including the platforms. This would give greater strength to what is now the weakest portion of the car, and tend to the additional safety of the traveling public. The experience of recent accidents emphasizes the desirability of strength in the construction of cars used for passenger traffic. Especially is this true in the case of the accidents at Rome and Preble.

The Board has noticed that some of the roads in the State neglect to put chains across the opening on the platform of the rear coach of passenger trains. The necessity for protection of this kind is apparent, and the Board believes all that is necessary in order to provide this protection for the future is to call the attention of railroad managers to its omission.

Lighting Cars.

As stated in last year's report, railroad companies are making rapid progress in the equipment of their passenger coaches with apparatus for lighting by gas. Cars are also being successfully lighted by electricity. The Board renews its former recommendation on this subject, as it believes that all passenger coaches should be lighted by either gas or electricity.

Guard Rails and Frogs.

Thirteen persons were killed and fourteen injured during the past year by having their feet caught in guard rails or frogs, as compared with two persons killed and nine injured during the year 1894. The best method of preventing this class of accident is still undetermined. The Legislature of the State of Massachusetts has passed a law compelling railroad companies to use a device, to be approved by the Board of Railroad Commissioners of that State, for blocking frogs and guard rails. This Board most earnestly recommends the use of some such device by every railroad in this State.

Block Signals.

The block signal system on trunk lines has become a recognized necessity, and is in successful operation on nearly all of them. As stated in last year's report, there has not been a rear collision of passenger trains upon any road using the absolute block system.

Fences.

Comparatively few complaints were received from owners of farm lands along the various railroad lines of the State during the year regarding inadequate fencing, and in each instance, upon notification from the Board, necessary repairs were promptly made. The Board renews its recommendation relative to the statute as to fences. It should be made more definite in respect to the question as to what constitutes a proper fence, and the railroad companies having constructed a suitable fence should not be asked to change its character every time the farmer changes his method of farming. The statute should be clear and explicit upon these points and no opportunity afforded for a controversy between the landowners and the railroads.

Fires.

There was but one complaint as to fires caused by locomotives during the year. This is no doubt entirely due to the general use of the improved screen adopted at the suggestion of this Board and

to the increased care and caution exercised by the officers and railroad employes to protect property from fires.

Stations.

The law prohibiting the discontinuance of stations without the consent of this Board continues to operate satisfactorily. Two applications for permission to change the location of stations on Long Island were made during the year, one of which was denied and one approved. Both applications were fully investigated and opportunity afforded the patrons of the respective stations to be heard. Only one application, which is still pending, was made for the discontinuance of a station.

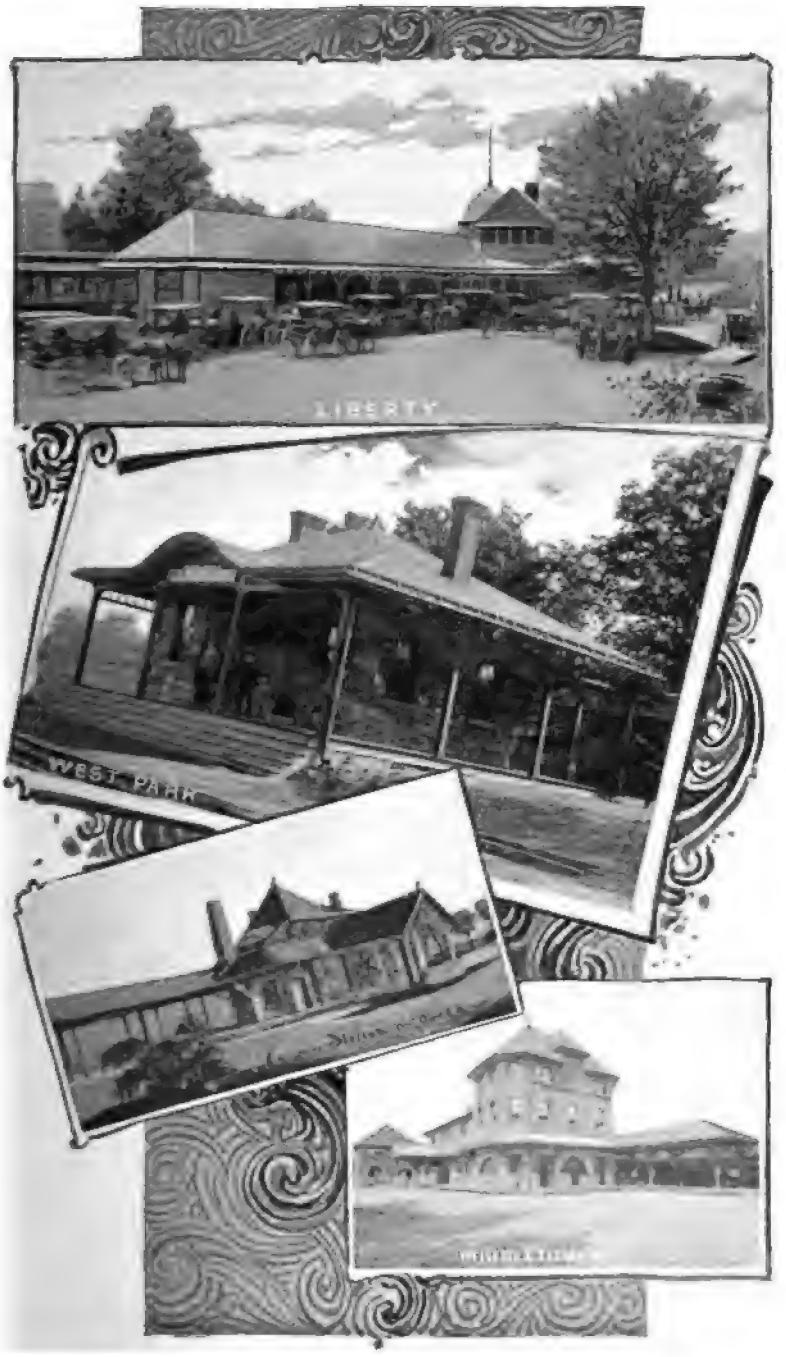
Improved Station Facilities.

Increased attention is being paid by steam railroad companies to the subject of improved station facilities, and the old, unsightly wooden structures, even at comparatively small places, are rapidly giving place to solid and substantial structures which combine with architectural beauty, sanitary requirements and all necessary facilities for the comfort and accommodation of passengers. During the year a new station, long needed, has been erected at Syracuse. The station is 122 x 94 feet, with a tower 25 x 25 feet and a baggage-room and ticket-office extension 50 x 104 feet. In addition there is to be a train shed of steel and iron 480 x 128 feet, and the trains are reached by a stairway from the waiting-room, thus doing away with the necessity of crossing tracks. A driveway under the tracks will permit of approach to the station by carriages from all directions with perfect safety. The accompanying illustrations show the new station at Syracuse, also a station on the West Shore Railroad at Congers, and new stations at Liberty and Middletown on the New York, Ontario and Western Railway.

Accidents.

Whether from decrease in travel on railroads, greater caution on the part of the public or increased precautions for safety by the railroad companies, or from all of these causes combined, the latter


STATION AT SYRACUSE N.Y.
FOR THE NEW YORK CENTRAL AND
HUDSON RIVER R.R. CO.


LIBERTY
WEST PARK

probably the most plausible explanation, it is the fact that the number of railroad casualties in this State has been steadily decreasing for several years. The number of accidents, fatal and otherwise, for the year ending June 30, 1895, as appears from the accompanying table, was materially less than in 1894, which year also showed a decrease as compared with 1893. The totals for the three years are as follows:

	1893.	1894.	1895.
Killed	742	723	694
Injured	2,288	1,821	1,125

Although the effort has been made to eliminate accidents of a trivial nature from these tables, nevertheless a large proportion of the injured class, fully one-half, may still be characterized as trivial, in that they did not cause any amount of discomfort or materially interfere with the occupation of the individual.

Of the number killed during the year of all classes, only 62 met death from causes beyond their own control, 60 of whom were employes and 1 was a passenger. The number of this class in 1894 was 88, 29 of whom were passengers, indicating increased precautions for safety on the part of the railroad companies.

The number killed from their misconduct or incaution was 603 in 1895 and 523 in 1894; injured, 875 in 1895 and 1,136 in 1894. Of these totals, 341 of the killed in 1895 were walking on the tracks, of whom 55 were employes, and 283 in 1894, including 55 employes. From these figures it appears that the greater number killed in the manner above described were trespassers who met death because they were where they had no right to be. The increase in this number is no doubt due to the increase in the number of miscellaneous floating characters, most of them, presumably, tramps, who travel from place to place along railroad lines watching for opportunities to steal rides on freight trains.

Seven passengers were killed last year while attempting to get on or off trains in motion, six fell from trains in motion, and three were killed while crossing tracks going to or from their trains.

There are so many stations in this State where the possibility for such accidents exist that the wonder is they are not of more

frequent occurrence. Extreme caution by the passengers and constant watchfulness by railroad station officials are absolutely necessary and alone prevent an enormous increase in the number of this class of casualties.

Derailments and rear-end collisions caused 22 deaths and injuries to 92 persons in 1895. The deaths from these causes in 1894, were 45, and the number injured, 195.

The number of persons killed while intoxicated in 1895 was 22; injured, 11, as against 34 killed and 37 injured in 1894.

The increased use of air brakes and automatic couplers is, no doubt, largely responsible for the decrease in the number of accidents to employes. The elimination of grade crossings will be the next most potent reducing factor in connection with the accident lists. These figures relate only to steam railroads.

The following is a statement of accidents reported on street surface roads for the years 1894 and 1895:

OPERATED BY MECHANICAL TRACTION.

	1894.		1895.	
	Killed.	Injured.	Killed.	Injured.
Passengers	8	101	5	102
Employes	12	23	4	16
Others	62	129	45	96
Total	82	253	54	214

OPERATED BY ANIMAL POWER.

	1894.		1895.	
	Killed.	Injured.	Killed.	Injured.
Passengers	3	22	0	25
Employes	2	9	1	1
Others	5	11	4	7
Total	10	42	5	33
Grand total	92	295	59	247

A comparison of the accident statistics of this State for the year ending June 30, 1895, with those of the State of Pennsylvania for the same period is decidedly in favor of the railroads of New York. The State of Pennsylvania is mentioned, because more nearly of the size of New York in extent of territory and railroad facilities. The

Pennsylvania figures are from the report of the Railway Bureau of the Department of Internal Affairs. The comparison is as follows:

	New York.		Pennsylvania.	
	Killed.	Injured.	Killed.	Injured.
Passengers	17	119	29	612
Employes	181	630	447	8,346
Others	496	376	1,107	1,649
Total	694	1,125	1,583	10,607

The number of passengers killed in Pennsylvania was 1 to every 4,325,718 carried; injured, 1 to every 204,977 carried. For New York the number killed was 1 to every 9,511,492 carried; injured, one to every 1,358,784 carried. The statistics further show that in Pennsylvania the proportion of employes killed and injured to the total number employed was: Killed, 1 to 432; injured, 1 to 23. For New York the figures are: Killed, 1 to 742; injured, 1 to 213. These comparisons lead to the inevitable conclusion that the New York railroads are far in advance of those of Pennsylvania in the matter of safety appliances in the protection of both passengers and employes:

TABLE OF ACCIDENTS reported to the Board of Railroad Commissioners, classified as to cause, for the year ending June 30, 1895.

CAUSE OF ACCIDENT.	Passengers.				Employes.				Others.				Total.			
	1895.		1894.		1895.		1894.		1895.		1894.		1895.		1894.	
	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed.	Injured.	Killed	Injured.
Fell from train, engine or car	6	5	3	6	41	83	33	111	18	19	21	36	65	107	57	153
Getting on or off trains in motion	7	44	14	62	7	36	9	93	37	100	37	104	51	180	60	259
Striking low bridges, switches, tunnels, etc	1	5	.....	1	3	28	9	45	1	3	.....	4	5	36	9	50
Passengers putting head or arms out of windows, or missles thrown in windows	.....	8	.....	9	.....	.....	.....	.....	.....	.....	.....	.....	.....	8	.....	9
Coupling or uncoupling cars	.....	.....	.....	.....	18	243	22	532	.....	3	.....	4	18	246	22	536
Walking or being on track	3	1	1	1	55	53	55	60	283	151	227	155	341	205	283	216
Found dead on track	.....	.....	2	.....	8	.....	16	.....	88	.....	104	.....	96	.....	122	.....
Crossing track at highways:																
Protected with gates or flagmen	.....	.....	.....	.....	1	.....	1	1	12	29	28	37	13	29	29	38
Not protected with gates or flagmen	.....	.....	.....	.....	.....	.....	2	.....	51	51	64	57	51	51	66	57
Catching foot in frog or between rails	.....	.....	.....	.....	13	12	2	9	.....	2	.....	.....	13	14	2	9
Derailment by misplaced switch	.....	.....	7	36	1	.....	.....	10	.....	.....	.....	.....	1	.....	7	46
Derailment by broken rail	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....	.....
Derailment by broken frog or switch	.....	.....	.....	.....	.....	.....	.....	2	.....	.....	.....	.....	.....	.....	.....	2
Derailment by broken axle	.....	.....	.....	.....	.....	3	.....	1	.....	.....	.....	.....	.....	3	.....	1
Derailment by broken wheel	.....	1	.....	1	2	3	.....	12	2	.....	.....	.....	4	4	.....	13
Derailment by defective track	.....	3	.....	21	1	6	1	6	.....	.....	.....	.....	1	9	1	27
Derailment by obstruction on track	.....	.....	.....	.....	4	7	.....	1	.....	.....	.....	.....	4	7	.....	1
Derailment from unknown causes	.....	10	1	.....	4	2	1	2	.....	.....	.....	1	4	12	2	3
Collisions, butting by misplaced switch	.....	1	.....	5	1	3	1	11	.....	1	.....	1	1	5	1	17
Collisions, butting by mistake or neglect of orders or signal	.....	13	16	31	2	16	5	22	.....	2	1	.....	2	31	22	54
Collisions, butting with a handcar	.....	.....	.....	.....	1	.....	2	3	.....	.....	.....	.....	1	.....	2	3
Collisions, butting by causes unexplained	.....	.....	.....	.....	.....	4	.....	2	.....	.....	.....	.....	.....	4	.....	2
Collisions, rear, by misplaced switch	.....	.....	.....	9	.....	.....	.....	7	.....	.....	.....	.....	.....	.....	.....	16
Collisions, rear, by mistake or neglect of orders or signal	.....	2	.....	11	.....	3	4	5	.....	.....	2	.....	.....	5	6	16
Collisions, rear, by parting of trains	.....	.....	.....	1	2	6	3	7	.....	.....	1	1	2	6	4	9
Collisions, rear, from unknown causes	.....	3	.....	.....	3	.....	.....	1	.....	3	.....	.....	3	6	.....	1
Collisions at grade crossings of railroads	.....	4	.....	.....	1	.....	.....	.....	.....	.....	.....	.....	1	4	.....	.....
Failure of bridge, cattleguard or trestle	.....	.....	3	4	.....	2	2	3	.....	.....	.....	.....	.....	2	5	7
Locomotive explosions	.....	.....	.....	.....	1	2	3	3	.....	.....	1	.....	1	2	4	3
Other train accidents	.....	2	.....	.....	2	25	5	4	1	.....	.....	1	3	27	5	5
Other causes	.....	16	.....	23	6	89	7	180	1	12	3	31	7	117	10	234
Casualties not caused by trains, engines or cars	.....	1	1	1	4	4	2	33	2	.....	1	.....	6	5	4	34
	17	119	48	223	181	630	185	1,166	496	376	490	432	694	1,125	723	1,921
From causes beyond their own control	1	57	29	143	60	173	51	467	1	9	8	18	62	239	88	627
By their own misconduct or incaution	14	61	14	72	115	456	108	685	474	358	401	379	603	875	523	1,136
Reported or caused by intoxication	2	1	3	7	1	1	2	4	19	9	29	26	22	11	34	37
Indeterminable as to want of caution or otherwise	.....	.....	2	2	5	.....	24	10	2	.....	52	9	7		78	21
	17	119	48	223	181	630	185	1,166	493	376	490	432	694	1,125	723	1,921

Passengers Carried.

The following shows the total number of passengers carried during the year ending June 30, 1895, as compared with the preceding year:

	1894.	1895.
Steam roads	162,957,535	161,792,152
Elevated roads	251,692,610	241,126,487
Street roads	504,070,025	561,409,498
Total	918,720,170	964,328,137

The accident table makes the remarkable showing that only one passenger of the total number carried on steam roads was killed, during the year ending June 30, 1895, from causes beyond his own control. In 1894 twenty-nine passengers were thus killed, making the average one in each 31,680,000 passengers carried, as against one in each 161,695,360 passengers carried in 1895.

The following shows the number of passengers carried on the elevated and street surface roads of New York city and Brooklyn during 1894 and 1895:

NEW YORK CITY.

	1894.		1895.	
	Passengers Carried.	Miles of Road, Single and Double Track.	Passengers Carried.	Miles of Road, Single and Double Track.
Elevated Roads	202,751,532	82.19	137,614,985	83.65
Street Roads	251,638,902	317.45	286,833,434	346.82
Total	454,390,434	399.64	474,448,419	430.47
BROOKLYN.				
Elevated Roads	48,705,847	56.42	53,251,922	58.16
Street Roads	143,131,063	334.76	153,420,579	333.25
Total	191,836,910	391.18	206,672,501	391 41
Grand Total New York City and Brooklyn	646,227,344	790.82	681,120,920	821.88

Trespassers.

Of the total number of persons killed upon the railroads of this State last year, 341, nearly one-half, were trespassers upon railroad property—some of them, no doubt, suicides. The law forbids walking or being upon the tracks of railroads, and makes the offence a

misdemeanor. The great mortality to this class indicates that the law is practically a dead letter, at least in the country districts, mainly for the reason, we believe, that magistrates are lax in its enforcement. The railroad companies make a fairly successful effort to expel trespassers from their yards and depot grounds, but too frequently when an arrest is made the culprit is discharged with a lecture and rushes off to repeat the offence in an attempt to steal a ride on the first freight train passing through the town.

Aside from the danger to the rapidly increasing number of tramps and dissolute characters who make the railroad tracks a route of travel from place to place, regard for the public safety demands a more rigid enforcement of the law. The miscreants who caused the recent wreck near Rome on the New York Central road, and the one at Preble on the Delaware, Lackawanna and Western road, in both of which lives of employes were lost, were trespassers. The immunity from even arrest enjoyed by trespassers and the facility with which tools for train wrecking can be obtained along every section of the roads, presents a condition of continually threatened danger which, no matter how great the caution exercised by the companies, it is at times impossible to avert. Tools for track repair cannot be kept in burglar-proof vaults, nor can all sections of the roads be constantly patrolled by watchmen.

Receiverships.

Since the publication of the last report, only one road has passed into the hands of a receiver, while ten companies have been reorganized and the receivers discharged, namely: Port Jervis, Monticello and New York; Western New York and Pennsylvania; New York, Lake Erie and Western; New York and New England; Chautauqua Lake; Northern Adirondack, and Grand View Beach Steam Surface, and the Utica Belt Line, Flushing and College Point, and Long Island City and Newtown street surface roads. Seven steam and four street roads, having a total mileage of about 310 miles, remain in the hands of receivers.

Mileage Books.

Chapter 1027 of the laws of 1895, compelling certain railroads to issue mileage books for 1,000 miles each, at the rate of two cents a mile, has resulted in numerous complaints as to the manner of its observance. The railroads affected have generally undertaken compliance with the law by limiting the number of offices at which these mileage books can be obtained, and by requiring the holders of said books to exchange the coupons for regular tickets at stations before entering trains. The Board is not willing to say that the latter practice is not within the requirements of the law, but is of the opinion that the sale of mileage books at the main office only is not a reasonable compliance with the statute, and that such books should be obtainable at the ticket offices of all the large and important stations. A recommendation to this effect has been made to the companies interested.

Section 59 of the Railroad Law.

This section, prior to May 20, 1895, only applied to steam-surface railroads. During the legislative session of last year it was amended by striking out the words, "This section shall not apply to street railroads," thereby, in effect, making it apply to both steam and street railroads. Section 59, as appears from former reports of this Board, was passed upon its repeated recommendation in 1892, and, as the Board is convinced, has been for the best interests of the public. If its scope was to have been extended so as to include street railroads, it should have been amended in several respects. It should have provided that on such applications this Board should be empowered to certify that public convenience and necessity require the construction of the road as proposed in the articles of association, *in whole or in part*, specifying such routes as to it seem either to be or not to be required by public convenience and necessity. The Board should also be empowered, in the event of its finding that public convenience and necessity do not demand the construction of a new line or any part thereof, to compel the construction by an existing company or companies of such addi-

tional routes as it deems are demanded by and will best serve public convenience and necessity. In this connection it would seem that section 90, providing for the extension of existing street railroads, should be made subject to the provisions of section 59.

Increase of Capital Stock.

The law prohibiting increase of capital stock by a railroad corporation, except upon the written approval of the Board of Railroad Commissioners, was designed, it is to be assumed, to prevent so-called stock watering. It could have had no other purpose, and yet, without accompanying restrictions regarding the original capitalization of a company and the regulation of the issue of bonds it is practically of little or no avail. At the outset a company can make its stock any amount upon which it is willing to pay the incorporation and other taxes, and can issue bonds equal in amount to its stock. If at some future period an increase of stock is desired, this Board requires as a condition precedent to its approval of the increase an investigation as to the financial condition of the company, and evidence as to the purpose for which the money obtained from the increased stock is to be used. In this direction every possible precaution has always been taken by the Board to enforce the law in letter and spirit, but it has no power to exact as a condition to the issuing of the stock that the capital account of the road shall not be charged with an equal amount of bonds, thus increasing the obligations of the company beyond lawful requirements. These securities are supposed to be issued upon the property represented by the expenditure of the money contributed by the bond and stockholders, but when, as is too often the case, instead of receiving any money for the stock it is presented as a bonus with the bonds, or passes through the hands of a convenient construction company without adequate consideration, the spirit of the law is violated and a fraud committed upon the public. Moreover, the stock is thus placed upon a speculative basis, demoralizing the market for it and frequently subjecting innocent outsiders to

heavy losses. The bane of our railroad systems, as has been repeatedly urged by this Board, is the practice of underhanded stock watering and the excessive issue of bonds. It is fallacious to assert where stock is watered that even in the eyes of the law the stock and bonds of a company represent so much capital actually expended, and it is equally unjust to demand that the capital account of a company shall be only an amount equal to what it would cost to duplicate the company's property. The public and the investor each have rights to be conserved. The former has the right to demand the service of the company at a reasonable charge, but sufficient to yield a fair return upon the money of the investor and for the risk he takes in projecting a new enterprise, but the latter is not entitled to a double capitalization nor to the protection of the State in a speculation upon future prosperity.

The Legislature of Massachusetts, in 1894, passed a law intended to correct the evils of stock watering and the overissue of bonds, from which we quote:

"Railroad and street railway companies, whether such companies are organized under general laws or under special charter, and however authorized to issue capital stock and bonds, shall hereafter issue only such amounts of stock and bonds as may from time to time, upon investigation by the board of Railroad Commissioners, be deemed and be voted by them to be reasonably requisite for the purposes for which such issue of stock or bonds has been authorized. The said Board shall announce a decision within thirty days from the date of the last hearing upon the application of any railroad or street railway company for permission to issue such stock or bonds. The vote of the Board approving such issue shall specify the respective amounts of stock and bond authorized to be issued for the respective purposes to which the proceeds thereof are to be applied. Any such decision and vote of the Board of Railroad Commissioners shall be filed in writing in the office of said Board within seven days after the rendering thereof, and shall assign in writing the reasons for the decision.

A certificate setting forth the vote of the Board shall, within three days after said vote, be filed in the office of the Secretary of the Commonwealth, before the certificates of stock or the bonds are issued; and no company included in the terms of this act shall apply the proceeds of such stock or bonds to any purpose not specified in such certificate."

Some such amendment to the laws of this State would no doubt correct the evils complained of. No corporation organized with intent to honestly operate its railroad in the public interest and for the benefit of its bond and stock holders could possibly object to regulation and restriction of this character. There should undoubtedly be some latitude permitted in the matter of the amount of securities to be issued, in view of the risk ordinarily taken by investors, but the lines should be closely drawn and the law made so emphatic in its terms that a stop could be put to the practice of floating securities which at best can have only a prospective value. Perhaps fewer enterprises would be promoted, but these restrictions would conserve public interest and guarantee greater security to investors. The Board earnestly commends this subject to the attention of the Legislature.

Electric and Cable Street Railroads.

Safety in the operation of electric and cable street railroads continues to be the most serious problem presented for consideration in connection with their management. During the past year the Board has examined many different kinds of fenders designed for street roads, none of which, however, have seemed to meet all the requirements, and the fact that the ideal fender has not yet been presented has, no doubt, prevented the universal adoption of a life-saving guard on electric and cable cars. Primarily it may be said that the best way to prevent the now too frequent electric car accidents is to exercise the utmost care in the selection of capable persons for the position of motorman; but even this consideration should not deter the companies from using some device, inadequate though it may be, to assist the motorman in preventing accidents. Without

particularizing, it may be stated that one street railroad in this State, having now some 146 miles of track, has used an ordinary life-guard or two years, with the result that only four persons were killed upon the entire mileage and ninety-eight injured, many of them slightly, while 117 were picked up by the fender uninjured.

The Board called attention in its last annual report to the necessity for some device by which the speed of trolley cars could be mechanically regulated, in lieu of which a speed indicator should be conspicuously displayed, whereby the motorman could tell at a glance the rate of speed maintained by the car. The latter suggestion has been met by a series of notches on the plane over which the lever used to put on and shut off the power moves, each notch indicating a certain rate of speed. A controlling device has also been perfected, and is now in successful operation on the cars of the Buffalo and Niagara Falls Electric street surface road. The cars of this road are equipped with four twenty-five-horse-power motors, and the speed controller can be adjusted by the motorman to positively limit the maximum speed the car can attain. Experiments are now being made in the application of the device to cars using but two twenty-five-horse-power motors, which, if successful, will satisfactorily settle the problem of regulating and controlling the speed of trolley cars in cities.

The use of power brakes on street-surface cars operated by mechanical traction is receiving attention at the hands of the managers of such roads. The necessity for such an appliance is conceded. The difficulty is to procure a brake that will safely answer all requirements. Experiments are constantly being made in this direction, and it is confidently predicted by street railroad managers that in the near future all mechanically-operated street cars in large cities will be equipped with power brakes. The shorter the distance in which a car can be stopped, the less danger there is of accident either to persons or property.

All street cars in this State should be heated during the winter months, and most of the companies have complied with the recommendations of the Board in this respect. A law requiring all

street-surface cars to be properly heated would secure full compliance in this important matter.

The Board, in addition, renews generally its recommendations of 1893 and 1894, and urges the Legislature to consider the propriety of embodying, at least, a part of them in some enactment.

Labor Disturbances.

The only conflict between capital and labor during the year was on the lines of the street surface railroads of Brooklyn. It occurred in the early part of 1895, and was the result of the refusal of the companies to accede to certain requests of their employes in the making of the contracts regulating the terms of employment for the ensuing year. The strike that followed was disastrous alike to the companies and to their men. It entailed temporary suspension of operation, loss in income and in wages, destruction of property and a large expense to the municipality in suppressing disorder. Nothing was gained by either side in the controversy, and in addition to the direct loss to the companies, traffic was permanently diverted to other routes of travel.

Street Railroad Accounting.

The system of street railroad accounting was revised by the Board during the year, after consultation with the accountants of the principal street railroads of the State, and a full explanation of the revised system appears elsewhere in this volume. The new system was not issued in time to compel compliance with its provisions this year, although nearly all of the companies have voluntarily made the necessary changes. For 1896, however, the Board will insist upon strict adherence to the new method, and will also take steps to insure a more prompt return of the annual reports. The compilation of the statistical tables of the report has been delayed this year by carelessness and inaccuracy in the preparation of annual reports by street surface railroads and by unnecessary delay in their filing. The law empowers the Board to certify delinquents to the Attorney-General for the collection of a penalty of $250 for failure to file annual re-

ports within the time prescribed unless the time is extended for cause. Heretofore too much leniency has been exercised in this respect, and another year delinquents will be given an opportunity to pay the penalty. The law also requires the filing of quarterly reports, but prescribes no penalty for failure to do so within the reasonable time permitted by the Board. It is recommended that the Legislature prescribe a penalty of $75 for failure to file a quarterly report, to be collected as is now provided for the collection of the penalty in the case of failure to file the annual reports.

Park Avenue Improvement, New York City.

Among the requirements of the act of Congress making appropriation for the conversion of the Harlem river, between the North and East rivers, into a waterway for the passage of large vessels, was the elevation of the railroad bridge crossing the Harlem river, between 129th and 138th streets, to secure a twenty-six feet clearance above the high-water line of spring tides. To accomplish this necessitated a change in the grade of the Harlem railroad, upon the tracks of which all roads having a terminus at the 42d street station enter the city of New York, and in 1892 the Legislature of this State, by chapter 339, provided, in detail, how this change should be made. The old grade was established in 1872, at which time the tracks of the Harlem railroad were depressed, and the tunnel south of 106th street constructed at the joint expense of the railroad company and the city of New York. The change in grade, by the act of 1892, begins at 106th street, from which point to 116th street there is an ascending grade at the rate of forty feet to the mile. Thence northwardly the grade descends twenty-four and seven-tenths feet to the mile to 129th street, and thence, still descending, at the rate of twenty-nine and six-tenths feet to the mile, to a point eighty feet south of the bulkhead line of the Harlem river. The grade crossing the river is at the elevation prescribed by Congress, and gradually descending, the level of the tracks of the Harlem railroad is reached at 149th street. Chapter 339 further provided that the city of New York should pay not to exceed $750,000 of the cost

of this improvement and the railroad company the balance. of the most important results obtained for the city of New by this improvement is the opening of all streets from 110th s to the Harlem river, running east and west at the present s grade, with a clearance of fourteen feet from the pavement to structure upon which the tracks are carried. This includes streets which are now not carried over or across the railroad t and are, therefore, practically closed so far as direct commu tion east and west of the tracks is concerned. It will also elim the only dangerous grade crossing on the line of this rai within the city limits, namely, at 138th street.

Work on the improvement was begun in April, 1893. It certainly be completed by April, 1896. The cost, including new bridge, will approximate $3,000,000. The viaduct is of hearth steel, accommodating four tracks, the spans of through girders averaging sixty-five feet centres between columns. flooring of the viaduct is solid, made by plates and angles with ballast and thorough drainage provided. The viadu upheld by steel columns resting upon piers of brick and con set in the old masonry. About a mile, between 115th and streets, where the old tracks are depressed below the surface, w filled, when these tracks are abandoned, to the level of the st The space to be filled averages eighteen feet in depth and fifty in width. The total length of steel viaduct is 6,412 feet. bridge across the Harlem consists of two steel spans, one 185 long and the other 131 feet on the north side of the river. draw span when open gives two clear spaces at right angles to river of 100 feet each. The draw will move in a circle up central pivot and track and will be operated by steam. Two horse-power boilers will be placed on the structure, either of w will be sufficient to operate the draw. The subwork and mas is solid and massive, the best stone obtainable for the purpose ing been used, and the greatest care taken to make a permanent stable structure. The drawbridge will weigh, when compl 2,500 tons on foundations. It will cost, including opera

machinery, above foundations, $218,000. The accompanying illustration gives an excellent idea of the appearance and character of that part of the structure south of the Harlem river.

Abolition of Grade Crossings in Buffalo.

Plans have finally been perfected and agreements signed for the abolition of grade crossings in the city of Buffalo. In 1888, a grade crossing commission was created by act of the Legislature for the city of Buffalo. The commission was empowered to prepare a general plan for the abolition of grade crossings in that city and to enter into agreements with the several railroad companies whose tracks run through the city to carry the plan into effect. The commission encountered many obstacles, and at the outset considerable opposition, and the act of 1888 was several times amended before it became possible to reach a satisfactory agreement. On July 23, 1895, a plan was finally adopted, however, and the agreement as to distribution of expense and all details of construction signed by all the parties in interest.

The total cost of the improvement is estimated at $4,956,165, of which the city of Buffalo will pay $873,670. The total cost to the railroads will, therefore, be $4,082,495, distributed as follows:

New York Central and Hudson River and West Shore Railroads	$2,016,927
New York, Lake Erie and Western Railroad	917,594
Lake Shore and Michigan Southern Railroad	339,412
Western New York and Pennsylvania Railroad	423,253
Buffalo Creek Railroad	145,062
New York, Chicago and St. Louis Railroad	123,960
Union Terminal Railroad	57,216
Delaware, Lackawanna and Western Railroad	59,071
Total	$4,082,495

When completed, the entire improvement will consist of eighteen viaducts carrying streets over railroad tracks, and nineteen subways carrying streets under railroad tracks. In addition there will be a beam tunnel carrying the tracks of the New York Central and Hudson River Railroad Company through a cut in the Terrace under Main street, the principal thoroughfare of the city. The general

scheme of dividing the cost of the work is that the railroad companies pay the cost of all work which is done over their tracks or right of way, if the work be a viaduct, and of all work under their right of way if the work be a subway. The cost of the approaches in either case is divided between the city and the railroad companies, the city paying one-third and the companies two-thirds. It is expected to take three or four years for the completion of the improvement, work upon which has already begun.

Railroad Map.

The railroad map issued by the Board last year has been pronounced the most accurate map of the railroads of this State ever presented. The map accompanying this year's report is from the same plate as that of 1894, with corrections bringing it down to date in the matter of changes and additions.

The Empire State Still Supreme.

New York still holds the record for fast long distance running. Efforts were made by English roads during the year to excel in this respect, and a special train from London to Aberdeen, weighing 50,080 pounds, ran 539.75 miles at an average rate of speed of 63.24 miles per hour elapsed time, and 63.93 miles per hour, time in motion. Following that effort, a special train on the New York Central, weighing 361,000 pounds, ran from New York to Buffalo, a distance of 436.32 miles, at an average of 63.54 miles per hour elapsed time, and 64.22 miles per hour, time in motion. The weight of the Central train, it will be seen, was more than double that of the London train. Since these experiments, the regular running time of the Empire State Express between New York and Buffalo has been reduced to eight hours and fifteen minutes, the former time having been eight hours and forty minutes. The weight of the regular Empire State train is 360,000 pounds, and no difficulty is experienced in making the time. This is the world's record for a regular long distance passenger train.

Coal Car Dumping Machine in Use by Erie Railroad Company. First Position of Car in Unloading Apparatus.

Coal Car Dumping Machine in Use by Erie Railroad Company. First Position of Car in Unloading Apparatus.

Coal Car Dumping Machine in Use by Erie Railroad Company. Car in Position for Unloading.

Summary of Recommendations to the Legislature.

In conclusion the Board submits the following summary of recommendations to the Legislature:

An amendment to section 59 of the Railroad Law relative to the application of street surface railroads for a certificate of public convenience and necessity, empowering the Board to certify to the whole or a part of the route proposed by a new corporation, or to compel an existing corporation to build such additional lines as are deemed to be required by public convenience and necessity.

An amendment to section 90 of the Railroad Law, subjecting extensions to the provisions of section 59.

An amendment to the Stock Corporation Law further restricting the issue of stock and bonds by railroad corporations.

An amendment to the Railroad Law prohibiting grade crossings and providing for the abolition of those already established.

An amendment to the Railroad Law compelling all passenger and drawing-room or sleeping cars on steam surface railroads, and all passenger cars on elevated railroads to be lighted by gas or electricity.

An amendment to the Railroad Law compelling the blocking of guard rails and frogs with some suitable device.

An amendment to the Railroad Law more clearly defining the character of fences to be erected by railroad companies between railroad and private property.

An amendment to the Railroad Law compelling the use of fenders on street surface cable or electric cars, and generally regulating the operation of such roads as to speed, use of air or power brakes and other safety appliances. (See report of Board of Railroad Commissioners for 1894, page xxxv.)

An amendment to the Railroad Law prescribing a penalty for failure to file quarterly reports within a specified time.

All of which is respectfully submitted.

SAMUEL A. BEARDSLEY,
MICHAEL RICKARD,
ALFRED C. CHAPIN,
Commissioners.

Ten Year Comparisons.

The following series of comparative tables, the figures of which are taken from the annual reports made by this Board for the years 1886 to 1895 inclusive, show at a glance the progress of steam railroad enterprise in this State during the past ten years. The apparently abnormal increase in the figures of 1892 and 1893 was caused by the inclusion of the Philadelphia and Reading Railroad, then operating lines in this State, and which was required to report the operations of its entire system. For the years 1894 and 1895 the figures of the Philadelphia and Reading Railroad are eliminated.

TABLE SHOWING TOTAL ASSETS.

YEARS.	Cost of Road and Equipment.	Other permanent Investments	Cash and Current Assets.	Total Assets.
1886	$1,138,370,471	$73,322,949	$39,781,427	$1,251,474,847
1887	1,180,585,382	74,480,407	43,452,429	1,298,518,218
1888	1,208,848,443	58,088,256	40,541 290	1,307,477,989
1889	1,214,531,089	61,693,220	44,605,307	1,320,829,616
1890	1,225,[illegible]35,126	60,137 811	48,085,389	1,333,558,321
1891	1,270,265,163	82,195,200	51,929,120	1,404,389,483
1892	1,398,880,501	191,938,212	69,234,942	1,660,053,655
1893	1,448,473,167	201,216,555	73,544,016	1,723,233,738
1894	1,411,249,576	143,269,013	66,155,039	1,620,673,628
1895	1,391,577,447	147,439,172	70,094,041	1,609,110,660

TABLE SHOWING TOTAL LIABILITIES.

YEARS.	Capital Stock.	Funded Debt.	Unfunded Debt.	Total Liabilities.
1886	$611,804 812	$560,585,868	$52,381,931	$1,224,772,611
1887	631,708,057	580,080,831	57,712,350	1,269,501,238
1888	632,218,711	585,672,852	54,827,361	1,272,718,924
1889	625,698,973	585,495,355	64,689,626	1,275,883,954
1890	631,676,009	608,413,909	48,598,991	1,288,688,908
1891	646,712,352	633,150,067	64,035,665	1,344,198,085
1892	699,889,898	808,934,865	89,750,526	1,598,575,289
1893	715,520,890	832,378,464	110,776,958	1,658,676,312
1894	737,878,693	733,627,525	85,418,796	1,556,925 014
1895	725,066,079	732,363,503	99,360,452	1,556,790,034

TABLE SHOWING SURPLUS OF PROPERTY ACCOUNT.

YEARS.	Total Assets.	Total. Liabilities.	Surplus.
1886	$1,251,474,847	$1,224,772,611	$26,702,236
1887	1,298,518,218	1,269,501,238	29,016,980
1888	1,307,477,989	1,272,718,924	34,759,065
1889	1,320,829,616	1,275,883,954	44,945,662
1890	1,333,558,326	1,288,688,908	44,869,418
1891	1,404,389,483	1,344,198,085	60,191,398
1892	1,660 053,655	1,598,575,289	61,478,366
1893	1,723,233,738	1,658,676,312	64,557,426
1894	1,620,673,628	1,556,925,014	63,748,614
1895	1,609,110,660	1,556,790,034	52,320,626

TABLE SHOWING MAIN LINE AND TRACK MILEAGE.

YEARS.	Total Miles of Road, Main Line, Operated.	Total Miles of Road, Main Line, in State of New York.	*Miles of Track Operated.	*Miles of Track in State of New York.
1886	11,610	7,342	18,699	12,085
1887	11,996	7,383	19,586	12,248
1888	12,310	7,438	20,257	12,407
1889	12,406	7,467	20,626	12,645
1890	12,611	7,590	21,125	12,908
1891	12,947	7,651	21,906	13,215
1892	14,569	7,770	25,992	13,808
1893	15,092	7,888	27,343	13,854
1894	14,999	7,992	26,673	14,182
1895	15,061	8,032	27,145	14,282

*Includes double track, sidings and switches.

TABLE SHOWING LOCOMOTIVE AND CAR EQUIPMENT.

This year shows a loss in locomotive equipment of 22, and all other equipment of 5,570, indicating that, owing to the business depression, old and worn-out cars have not been replaced by new ones or existing equipment increased, as in previous years. The figures for 1892 and 1893, it must be remembered, included the Reading system entire, part of which is eliminated for the years 1894 and 1895.

YEARS.	Locomotives.	Passenger Cars	Baggage, Mail and Express Cars	*Freight Cars.
1886	3,972	3,481	1,005	148,120
1887	4,142	3,751	1,067	155,746
1888	4,377	3,950	1,205	164,550
1889	4,523	4,165	1,144	166,108
1890	4,640	4,188	1,212	173,404
1891	4,936	4,348	1,237	183,067
1892	6,548	5,284	1,651	275,863
1893	6,875	6,065	1,575	271,935
1894	6,453	6,104	1,544	247,347
1895	6,431	6,084	1,497	241,844

*Including box and platform cars.

TABLE SHOWING AVERAGE NUMBER OF EMPLOYES.

The extent to which employes have contributed to the reduction in operating expenses in the past two years is indicated by this table:

YEARS.	Number of Employes.	YEARS.	Number of Employes.
1886	89,873	1891	122,196
1887	102,634	1892	153,456
1888	106,300	1893	163,289
1889	109,200	1894	140,733
1890	112,044	1895	134,402

TABLE SHOWING OPERATING EXPENSES AND NET EARNINGS FROM OPERATION.

YEARS.	Gross Earnings from Operations.	Operating Expenses.	Net Earnings from Operation.	Percentage of Operating Expenses to Net Earnings from Operation.
1886	$125,160.289 48	$79,260,798 30	$45,889,491 18	63.33
1887	143,724,490 62	92,439,974 60	51,284,516 02	64.43
1888	152,122,705 73	101,605,061 79	50,517,643 94	66.79
1889	153,537,208 19	101,729.493 88	51,807,714 31	66.26
1890	163.974,833 87	107,959,410 80	56,015,423 07	65.84
1891	169 012,504 22	113,528.346 87	55,484,157 35	67.17
1892	213,998,745 98	143.364,445 67	70,634,300 31	66.99
1893	234,354.615 20	157,128,964 48	77,225,650 72	67.05
1894	197,957,315 47	137,040,574 21	60,916,741 26	69 23
1895	199,198,355 24	136,337,603 65	62,860,751 59	68.44

TABLE SHOWING INCOME FROM ALL SOURCES.

YEARS.	Gross Passenger Earnings.	Gross Freight Earnings.	Income from other Sources.	Gross Income.
1886	$42,294,958 37	$82,865,331 11	$4,449,391 66	$129,609,681 14
1887	47.472,504 22	96,251,986 40	5,453,671 31	149,178,161 93
1888	50,584,932 75	101,537,772 98	5,732,752 57	157,855,458 50
1889	52,758,297 11	100,778,911 08	4,985,649 49	158,522,857 68
1890	53,678,359 80	110,296,474 07	5,172,928 60	169,147,762 47
1891	57,195,893 53	111,816,610 69	4,965,163 92	173,977.668 14
1892	65,340,904 11	148,657,841 87	6,375,595 64	220,374,341 62
1893	71,690,353 47	162,664,261 73	7,243,112 88	241,597,728 08
1894	72,498,321 68	125,458,993 79	7,584,135 38	205,541,450 85
1895	67,977,890 77	131,220,464 47	7,128,186 83	206,326,542 07

TABLE SHOWING GROSS EXPENDITURES AND NET SURPLUS OR DEFICIT.

YEARS.	Operating Expenses.	Interest, Taxes, Rentals and Miscellaneous.	Dividends and other payments from Net Income.	Gross Expenditures.	Gross Income.	Net Surplus or Deficit.	Percentage of Gross Expenditures to Gross Income.
1886	$79,260,798 30	$37,984,326 86	$7,706,364 50	$124,951,489 66	$129,609,681 14	$4,658,191 48	96.41
1887	92,439,974 60	38,230,244 19	10,223,539 54	140,893,758 33	149,178,161 93	8,284,403 60	94.41
1888	101,605,061 79	40,714,656 05	10,173,537 88	152,493,255 72	157,855,458 30	5,362,202 58	96.60
1889	101,729,4 3 88	41,181,272 83	11,067,289 99	153,978,056 70	158,522,857 68	4,544,800 98	97.07
1890	107,959,410 80	42,430,451 05	14,375,656 20	164,765,518 05	169,147,762 47	4,382 244 42	97.41
1891	113,528,346 87	45,138,458 77	12,452,678 82	171,114,484 46	173,977,668 14	2,863,183 68	98.35
1892	143,364,445 67	59,057,073 79	15,551,658 07	217,973 177 53	220,374,341 62	2,401,164 09	98 91
1893	157,128,964 48	66,092,667 96	14,717,848 11	237,939,480 55	241,597,728 08	3,658,247 53	98.48
1894	137,040,574 21	54,780,455 16	15,738,075 57	207,559,104 94	205,541,450 85	d. 2,017,654 09	100.98
1895	136,337,603 65	54,893,209 09	14,948,390 79	206,179,203 53	206,326,542 07	147,338 54	99.92

d. deficit.

TABLE SHOWING DISTRIBUTION OF OPERATING EXPENSES PER MILE OF ROAD OPERATED.

YEARS.	Maintenance of Way and Structure.	Maintenance of Equipment.	Conducting Transportation.	General Expenses.	Total cost of Operation.
1886	$1 383 65	$1,162 41	$3,434 40	$846 27	$6,826 73
1887	1,608 82	1,356 55	3,840 63	970 00	7,776 00
1888	1,736 68	1,495 20	4,025 69	996 20	8,253 77
1889	1,639 60	1,419 09	4,068 22	1,072 50	8,199 41
1890	1,682 93	1,543 08	4,253 32	1,081 10	8,560 43
1891	1,638 63	1,433 25	4,552 49	1,144 18	8,768 55
1892	1,807 50	1,609 57	5,058 41	1,370 75	9,846 23
1893	1,882 65	1,715 52	5,404 38	1,409 05	10,411 61
1894	1,517 96	1,481 33	4,811 55	1,326 09	9,136 93
1895	1,466 61	1,468 57	5,792 07	*325 09	9,052 34

*Reduction caused by transfer of accounts from "General Expense" to "Conducting Transportation."

TABLE SHOWING DIVIDENDS PAID AND PERCENTAGE OF DIVIDENDS TO CAPITAL STOCK.

YEARS.	Capital Stock.	Net Incomes.	Dividends Paid from Net Income.	Dividends Paid Lessor Co.'s as Part of Rental.	Total Dividends Paid.	Percentage of Dividends to Capital Stock.
1886	$611,804,812 14	$12,364,555 98	$7,696,364 50	$3,481,812 17	$11,178,176 67	01.83
1887	631 708,057 20	18,507,943 14	10,207,885 50	3,614,988 60	13,822,874 10	02.19
1888	632 218,711 01	15,535,740 46	10,169,880 25	3,621,721 42	13,791,601 67	02.18
1889	625,698,972 69	15,612,090 97	11,059,789 99	3,557,545 00	14 617,334 99	02 34
1890	631,676,007 69	18,757,900 62	11,652,159 86	3,597,892 90	15,250,052 76	02.41
1891	646,712,352 69	15,315,862 50	12,358,240 20	3,831,616 78	16,189 856 98	02.50
1892	699 889 898 48	17,952,822 16	13,720,302 10	4,291,046 46	18,011,348 56	02.72
1893	715,520,890 35	18,376,095 64	14,662,992 60	4 132,469 69	18,795,462 29	02.61
1894	737,878,692 77	13,720,421 48	15,593,538 95	4,199,470 11	19,793,009 01	02.69
1895	725,066,078 76	15,095,729 33	14,943,065 79	4,136,277 89	19,079,343 68	02.63

TABLE SHOWING PASSENGER AND FREIGHT TRAIN MILEAGE, NUMBER OF PASSENGERS AND TONS OF FREIGHT CARRIED AND NET EARNINGS PER MILE OF ROAD OPERATED.

YEARS.	Passenger Train Mileage.	Freight Train Mileage.	All Other Train Mileage.	Number of Passengers Carried.	Tons of Freight Carried.	Passenger Profit per Mile of Road Operated.	Freight Profit Per Mile of Road Operated.	Gross Earnings from Operation Per Mile of Road Operated	Operating Expenses Per Mile of Road Operated.	Net earning per mile of Road Operated.
1886....	35,492,991	53,623,948	22,143,483	81,463,709	83,415,311	$1,345 62	$2,607 79	$10,780 05	$6,826 73	$3,953 32
1887....	39,129,685	58,848,570	25,778,009	94,272 116	94,536,620	1,445 09	2,868 94	12 090 03	7,776 00	4,314 03
1888....	43,126,576	63,419,073	28,127,709	105,416,082	100 031,783	1,309 56	2,794 19	12,357 52	8,253 77	4,103 75
1889....	43,991,535	61,526,331	24,103,020	111,589,717	99,757,536	1,490 69	2,685 01	12,375 12	8,199 41	4,175 71
1890....	45,217,173	66,805,619	25,874,179	115,822,617	110,353,903	1,489 09	2,952 54	13,002 06	8,560 43	4,441 63
1891....	48,699,996	68,447,897	25,569,816	125,911,800	114,252,334	1,525 38	2,760 03	13,053 96	8,768 55	4,285 41
1892....	57,906,712	89,406,687	29,894,246	153,142,090	156,164,437	1,362 87	3,488 27	14,697 37	9,846 23	4,851 14
1893....	65,922,703	95,914,815	42,809,169	170,435,583	167,341,226	1,266 99	3,850 17	15,528 69	10,411 61	5,117 08
1894....	63,555,939	81,291,396	30,543,005	162,957,535	126,431,679	1,557 23	2,504 28	13,198 48	9,136 93	4,061 55
1895....	62,420,337	80,958,966	32,692,689	161,695,360	138,684,811	1,100 23	3,073 50	13,226 07	9,052 34	4,173 73

TABLE SHOWING RESULTS OF PASSENGER TRAFFIC PER PASSENGER PER MILE AND OF FREIGHT TRAFFIC PER TON PER MILE WITH PERCENTAGES.

YEARS.	PASSENGER EARNINGS AND EXPENSES, PER PASSENGER, PER MILE.			FREIGHT EARNINGS AND EXPENSES, PER TON, PER MILE.			Percentage of passenger expenses to passenger earnings.	Percentage of freight expenses to freight earnings.
	Earnings (cents).	Expenses (cents).	Profit (cents).	Earnings (cents).	Expenses (cents).	Profit (cents).		
1886	2.31	1.46	.85	.7787	.4942	.2845	63.06	63.46
1887	2.36	1.51	.85	.7958	.5138	.2820	63.79	64.56
1888	2.30	1.57	.73	.7975	.5274	.2701	68.13	66.12
1889	2.29	1.49	.80	.7819	.5234	.2585	64.94	66.95
1890	2.28	1.48	.80	.7705	.5104	.2601	65.01	66.24
1891	2.22	1.45	.77	.7670	.5219	.2451	65.47	67.33
1892	2.21	1.54	.67	.7640	.5030	.2610	69.63	65.83
1893	2.18	1.60	.58	.7770	.5000	.2770	73.33	64.28
1894	1.93	1.31	.62	.7660	.5370	.2290	67.78	70.06
1895	2.24	1.69	.55	.7350	.4760	.2590	75.62	64.73

Articles of Organization of the Joint Traffic Association.

ADOPTED NOVEMBER 19, 1895. TO TAKE EFFECT JANUARY 1, 1896.

PREAMBLE.

PURPOSES OF THIS AGREEMENT.

To aid in fulfilling the purposes of the Interstate Commerce Act, to co-operate with each other and adjacent transportation associations, to establish and maintain reasonable and just rates, fares, rules and regulations on state and interstate traffic, to prevent unjust discrimination and to secure the reduction and concentration of agencies and the introduction of economies in the conduct of the freight and passenger service,

The Allegheny Valley Railway Company,
Baltimore and Ohio Railroad Company,
Baltimore and Ohio Southwestern Railway Company,
Central Railroad Company of New Jersey,
Chesapeake and Ohio Railway Company,
Chicago and Erie Railroad Company,
Chicago and Grand Trunk Railway Company,
Cleveland, Cincinnati, Chicago and St. Louis Railway Company,
Delaware, Lackawanna and Western Railroad Company,
Detroit, Grand Haven and Milwaukee Railway Company,
Erie Railroad Company,
Grand Rapids and Indiana Railroad Company,
Grand Trunk Railway Company of Canada,
Lake Shore and Michigan Southern Railway Company,
Lehigh Valley Railroad Company,
Michigan Central Railroad Company,
New York Central and Hudson River Railroad Company,
New York, Chicago and St. Louis Railroad Company,
New York, Ontario and Western Railway Company,
Northern Central Railway Company,
Pennsylvania Company,
Pennsylvania Railroad Company,
Philadelphia and Reading Railroad Company,
Philadelphia, Wilmington and Baltimore Railroad Company,
Pittsburgh and Lake Erie Railroad Company,
Pittsburgh and Western Railway Company,

Pittsburgh, Cincinnati, Chicago and St. Louis Railway Company,
Terre Haute and Indianapolis Railroad Company (Vandalia Line),
Toledo, Peoria and Western Railway Company,
Wabash Railroad Company,
West Shore Railroad Company,

do hereby constitute the Joint Traffic Association (hereinafter called the association), and make this agreement for the purpose of carrying out the objects above named. Other companies may become members of the association as provided in Article III.

ARTICLE I.

BOARDS OF ADMINISTRATION.

SECTION 1. The affairs of the association shall be administered by three Boards, with as duties hereinafter specified:

(*a*) A board of control.

(*b*) A board of managers hereinafter called the managers.

(*c*) A board of arbitration hereinafter called the arbitrators.

§ 2. Wherever the term traffic is used herein it means both freight and passenger traffic.

ARTICLE II.

TRAFFIC SUBJECT TO THE ASSOCIATION.

SECTION 1. The association shall have jurisdiction over all competitive traffic (subject to the exceptions noted in Section 2 of this Article) which passes to, from or through the western termini of the Trunk Lines, viz.: Toronto, Can.; Suspension Bridge, Niagara Falls, Tonawanda, Black Rock, Buffalo, East Buffalo, Buffalo Junction, Dunkirk and Salamanca, N.Y.; Erie, Pittsburgh and Allegheny, Pa.; Bellaire, O.; Wheeling, Parkersburg, Charleston and Kenova, W. Va., and Ashland, Ky.; and such other points as may hereafter be designated by the managers as such termini; also all traffic which may pass through other junctions of the companies parties hereto which is included when passing through any of the termini or junctions above or hereafter specified, and such other traffic as may by common consent of the parties be hereafter included herein.

§ 2. The following shall not be included:

(*a*) Coal, coke, iron ore, mill cinder, limestone and petroleum, crude or refined.

(*b*) Traffic destined to or coming from Florida, Georgia, North and South Carolina, Virginia and West Virginia south of the south line of the Chesapeake and Ohio Railway.

ARTICLE III.

THE BOARD OF CONTROL.

§ 1. The presidents of the companies forming the association and of such other companies as may become parties hereto, shall constitute the board of control, which shall meet on the written request of any three of its members.

§ 2. In case of the absence of any member of the board of control from a meeting, the next ranking officer in such company having jurisdiction over traffic will have authority to act in his place and stead.

§ 3. Each member of the board of control shall be entitled to one vote except that no system as designated in Article IV. shall have more than three votes in the aggregate.

It shall require three-fourths of the entire number of authorized votes to adopt any proposition coming before the board of control.

§ 4. The board of control shall fix the salaries of any commissioners appointed by the managers.

The salaries of other officers and employes of the association shall be subject to its review and approval.

The board of control shall select the arbitrators and fix their compensation and term of service.

§ 5. The board of control shall appoint an auditing committee, who shall examine and report to it upon the accounts of the association.

§ 6. The board of control shall prescribe the conditions and rules under which additional railway systems or companies shall become parties hereto and be represented upon the board of managers.

§ 7. Only the board of control shall consider appeals from the action of the managers on all questions as to rates or fares, except differentials.

§ 8. Pending decisions by the board of control the decisions and orders of the managers shall prevail.

ARTICLE IV.

THE BOARD OF MANAGERS.

SECTION 1. The board of managers shall consist of not less than nine members, of which each of the following nine systems shall designate one:

Baltimore and Ohio System, now comprising the Baltimore and Ohio Railroad line from Philadelphia to Parkersburg and from Philadelphia to Chicago via Wheeling and via Pittsburgh and Connellsville; Baltimore and Ohio Southwestern; Cleveland Terminal and Valley, and the Pittsburgh and Western Railway Companies, and all their leased, controlled or operated lines.

Chesapeake and Ohio System, now comprising the Chesapeake and Ohio; Cleveland, Cincinnati, Chicago and St. Louis, and lines composing that system, and the Peoria and Eastern Railroad Companies, and all their leased, controlled or operated lines.

Erie System, now comprising the Erie Railroad Company; the Chicago and Erie Railroad Company, and all their leased, controlled or operated lines.

Grand Trunk System, now comprising the Grand Trunk Railway Company of Canada and its affiliations west of the St. Clair River, viz., the Chicago and Grand Trunk; Cincinnati, Saginaw and Mackinaw; Detroit, Grand Haven and Milwaukee; Michigan Air Line, and the Toledo, Saginaw and Muskegon Railway Companies, and all their leased, controlled or operated lines.

Lackawanna System, now comprising the Delaware, Lackawanna and Western Railroad Company and its leased lines; and the Syracuse, Binghamton and New York Railroad Company, and all their leased, controlled or operated lines.

Lehigh Valley System, now comprising the Lehigh Valley Railroad Company and all its leased, controlled or operated lines.

Pennsylvania System, now comprising the Allegheny Valley; Cumberland Valley; Cincinnati and Muskingum Valley; Grand Rapids and Indiana; Northern Central; Pennsylvania; Pennsylvania Company; Philadelphia, Wilmington and Baltimore; Pittsburgh, Cincinnati, Chicago and St. Louis, and the Terre Haute and Indianapolis (Vandalia Line) Railroad Companies, and all their leased, controlled or operated lines.

Vanderbilt System, now comprising the Beech Creek; Canada Southern and its leased lines; Dunkirk, Allegheny Valley and Pittsburgh; Lake Shore and Michigan Southern; Michigan Central and its leased lines; New York Central and Hudson River; New York, Chicago and St. Louis; Pittsburgh and Lake Erie; Rome, Watertown and Ogdensburg; Wallkill Valley, and the West Shore Railroad Companies, and all their leased, controlled or operated lines.

Wabash System, now comprising the Wabash Railroad Company and all its leased, controlled or operated lines east of the Mississippi River.

§ 2. Additional managers representing other systems or companies which are now or may hereafter become parties to this agreement, may be designated by such systems or companies under the authority and rules of the board of control.

§ 3. Each manager shall hold office during the continuance of this agreement, subject to the pleasure of, and shall be compensated by, the system appointing him.

ARTICLE V.

RELATING TO THE DUTIES AND POWERS OF THE MANAGERS.

SECTION 1. The managers shall have their principal office in New York City and shall continue in session subject to their rules. They shall elect a chairman annually.

§ 2. The managers shall adopt their rules and perfect their organization. It shall, however, require the affirmative votes of three-fourths of their entire number to adopt any proposition coming before them.

§ 3. In considering questions which exceptionally affect the interests of any company party hereto unrepresented upon the board of managers, such company shall be advised thereof and be afforded an opportunity under the rules of the managers for presenting to them its views before final action is taken.

§ 4. The managers shall construe this agreement and all resolutions adopted thereunder.

§ 5. All applications for differentials and for changes in rates, fares charges and rules shall be made to the managers. Their action upon differentials and upon all questions except as to rates and fares shall be subject to appeal, but only to the arbitrators. Their action as to rates and fares (except differentials) shall be subject to appeal only to the board of control.

Decisions and orders of the managers shall be complied with until such appeals are decided.

ARTICLE VI.

APPOINTMENT OF COMMISSIONERS.

The managers may appoint not more than three commissioners and shall define their powers and duties.

ARTICLE VII.

RATES, FARES, CHARGES AND RULES.

SECTION 1. The duly published schedules of rates, fares and charges and the rules applicable thereto now in force and authorized by the companies parties hereto upon the traffic covered by this agreement (and filed with the Interstate Commerce Commission as to such of said traffic as is interstate), are hereby reaffirmed by the companies composing the association, and the companies parties hereto shall within ten days after this agreement becomes effective file with the managers copies of all such schedules of rates, fares and charges and the rules applicable thereto.

§ 2. The managers shall from time to time recommend such changes

in said rates, fares, charges and rules as may be reasonable and just, and necessary for governing the traffic covered by this agreement and for protecting the interests of the parties hereto therein, and the failure to observe such recommendations by any party hereto as and when made shall be deemed a violation of this agreement. No company party hereto shall through any of its officers or agents deviate from or change the rates, fares, charges or rules herein reaffirmed or so recommended by the managers, except by a resolution of its board. The action of such board shall not affect the rates, fares, charges or rules disapproved except to the extent of its interest therein over its own road. A copy of the resolution of the board of any company party hereto authorizing any such change shall be immediately forwarded by the company making the same to the managers and such change shall not become effective until thirty days after the receipt of such resolution by the managers. The managers, upon receiving such notice, shall act promptly upon the same for the protection of the parties hereto.

§ 3. The powers conferred upon the managers shall be so construde and exercised as not to permit violation of the Interstate Commerce Act or any other law applicable to the premises, or any provision of the charters or the laws applicable to any of the companies parties hereto, and the managers shall co-operate with the Interstate Commerce Commission to secure stability and uniformity in the rates, fares, charges and rules established hereunder.

ARTICLE VIII.

PROPORTIONS OF COMPETITIVE TRAFFIC.

The managers are charged with the duty of securing to each company party hereto, equitable proportions of the competitive traffic covered by this agreement so far as can be legally done.

ARTICLE IX.

RELATIONS TO NON-CONCURRING COMPANIES AND DIVISIONS OF RATES AND FARES.

SECTION 1. The managers shall decide and enforce the course which shall be pursued with connecting companies not parties to this agreement, which fail or decline to observe the rates, fares, charges and rules established under this agreement. The interests of companies parties hereto injuriously affected by such action of the managers shall, in such instances, be accorded reasonable protection in so far as the managers can legally do so.

§ 2. When in their judgment necessary to the purpose of this agreement, the managers may determine the divisions of rates and fares between connecting companies parties hereto and between them and connections not parties hereto, keeping in view uniformity and the equities involved.

ARTICLE X.

LIMITATION OF POWERS OF FREIGHT LINES.

It is recognized and agreed that economy in the operation of through co-operative and commission freight lines and the limitation or termination of many of their existing powers and functions are absolutely required, and the companies parties hereto will actively co-operate with the managers and so manage such lines as to accomplish such results.

ARTICLE XI.

MANAGERS MAY ORGANIZE JOINT AGENCIES.

The managers shall have authority to organize such joint freight and passenger agencies as they may deem desirable, provided that if such joint agencies are established they shall be so arranged as will give proper representation to each company party hereto.

ARTICLE XII.

MANAGERS TO APPROVE CONTRACTING AGENCIES.

No soliciting or contracting passenger or freight agency shall be maintained directly or indirectly by any of the companies parties hereto or by any freight line in connection with the traffic covered by this agreement, except with the approval of the managers, and no person who is decided by the managers to be objectionable shall be employed or continued in such agency.

ARTICLE XIII.

MANAGERS TO DEFINE DUTIES OF CONTRACTING AGENTS.

SECTION 1. The managers shall define the authority and duties of all persons acting as contracting and soliciting freight and passenger agents in relation to the traffic covered hereby, and, with due regard to the relative interests involved, they may determine the number of such persons to be employed. The parties hereto shall observe and enforce the orders of the managers from time to time issued in that behalf.

§ 2. Such contracting and soliciting agents as the managers appoint shall be carried upon the pay-rolls of the association.

§ 3. The Grand Trunk Company may appoint soliciting agents to be located at such points in Canada as may be necessary to meet the competition of Canadian lines not parties hereto, but such persons shall in all respects be subject to the rules of the managers.

ARTICLE XIV.

COMPLAINTS AND INVESTIGATIONS THEREOF.

When in the judgment of the managers their information or any complaint so warrants, the officials and employes of the companies parties hereto may be examined, and in such investigation any or all officials or employes may be notified to attend, and any or all matters affecting directly or indirectly the traffic herein covered may be considered.

ARTICLE XV.

REPORTS AND DATA TO BE FURNISHED.

The companies parties hereto agree to furnish to the managers all reports, papers and information relating to the traffic covered hereby, which may be requested by them.

ARTICLE XVI.

FORFEITURES FOR VIOLATIONS OF AGREEMENT.

For any action by any party hereto which in the judgment of the managers constitutes a violation of this agreement the offending company shall forfeit to the association a sum to be determined by the managers, not exceeding five thousand dollars, but where the gross receipts of the transaction in which this agreement is violated shall exceed five thousand dollars, the offending party shall, at the discretion of the managers, forfeit a sum not exceeding such gross receipts. Such forfeitures shall be applied to the payment of the expenses of the association, except that the offending company shall not participate in such application of its own forfeiture.

ARTICLE XVII.

DEPOSITS, EXPENSE FUND, AND PROVISION FOR FORFEITURES.

SECTION 1. Upon the call of the managers after this agreement becomes effective each company party hereto shall deposit with them the sum of five thousand dollars, and in addition thereto, upon their like call, such further sums monthly, based upon the gross earnings of each company party hereto from the traffic covered hereby, as the managers may decide to be necessary to defray the expenses of the association, in-

cluding the salaries of the commissioners and arbitrators, and to provide for such forfeitures as may be adjudged.

§ 2. Any forfeiture made by any company party hereto, under the rules, shall be taken from the sums contributed by such company and charged in whole to its account. If its deposit at the time, exclusive of its said original contribution of five thousand dollars, shall be insufficient, it shall pay to the managers such deficiency within fifteen days after the forfeiture is finally adjudged.

§ 3. The balance of said deposits remaining at the expiration of this agreement shall be divided between the companies then parties hereto in the ratio in which they have contributed, less the amounts forfeited.

ARTICLE XVIII.

RETIREMENT FROM THE AGREEMENT.

Any party retiring from this agreement before the final completion of the time herein fixed, except by unanimous consent of the parties hereto, shall not be entitled to any refund from the residue of deposits remaining at the close of this agreement, but if any company fails to observe and be governed by this agreement, which fact shall be determined by the arbitrators, and then fails to pay its forfeitures within fifteen days after such decision of the arbitrators, then any other company may withdraw from this agreement upon giving thirty days' written notice to the managers, and such company so withdrawing shall be entitled to the residue of the funds it has contributed.

ARTICLE XIX.

BOARD OF ARBITRATION.

SECTION 1. There shall be a permanent board of arbitration consisting of three disinterested persons, to which appeals shall be made as to all questions, including differentials, arising under this agreement, except the determination of rates and fares.

§ 2. All differences between the parties hereto as to any lawful measure necessary to carry out the objects of the association, except as to rates and fares, shall be submitted to and be finally decided by the arbitrators.

§ 3. Pending decisions of the arbitrators the decisions and orders of the board of control and managers shall prevail.

§ 4. Hearings shall be had upon all questions arbitrated, under the rules established by the arbitrators and approved by the board of control, and the decision of the arbitrators or of any two of them shall be final.

ARTICLE XX.

AMENDMENTS.

Amendments to this agreement shall only be made by the unanimous vote of the parties hereto.

ARTICLE XXI.

WHEN AGREEMENT BECOMES EFFECTIVE AND ITS DURATION.

SECTION 1. This agreement shall not be effective until it shall have been approved by the boards of directors of the several companies parties hereto. Certified copies of resolutions giving such approval shall be filed with the managers.

§ 2. This agreement shall take effect January 1st, 1896, and shall continue in existence for five years thereafter. After said period, any company may retire therefrom upon giving ninety days' written notice of its desire to do so.

The Philadelphia and Reading Railroad Company being legally incapacitated from signing this contract at present, but having so far as it can do so indicated through its president and receivers and proposed, Reorganization Committee its desire to act in harmony therewith and observe its terms, it is understood that the parties hereto will waive the signature of that company until it is reorganized; and be bound by this agreement only so long as that company observes its conditions, which fact shall be determined by the arbitrators provided herein.

In witness whereof, the corporations, parties hereto, have caused the foregoing agreement to be signed by their respective presidents and the seal of their respective corporations to be attached hereto.

[Here follows the signatures of the parties to the agreement.]

SUPREME COURT DECISION

IN THE MATTER OF

The Depew and Southwestern Railroad for a Certificate Pursuant to Section 59 of the Railroad Law.

Handed down Saturday, December 28th, 1895.

Supreme Court, General Term, Fifth Department.
Present—Lewis, Bradley, Ward and Adams, JJ.

IN THE MATTER OF THE APPLICATION OF THE DEPEW AND SOUTHWESTERN RAILROAD COMPANY FOR A CERTIFICATE PURSUANT TO SECTION 59 OF THE RAILROAD LAW.

Application by the directors of the Depew and Southwestern Railroad Company pursuant to section 59 of Chapter 676 of Laws of 1892, for direction to the Board of Railroad Commissioners to issue a certificate that the public convenience and necessity requires the construction of the railroad as proposed in the articles of association of that company following the denial by the Board of the application of the company for such certificate.

Wilson S. Bissell for the motion.

Daniel H. McMillan opposed.

BRADLEY, J.—The Depew and Southwestern Railroad Company was duly incorporated, and the termini of its proposed line of railroad were Depew and Blasdell in the County of Erie. The Terminal Railway of Buffalo was also duly incorporated and the proposed termini were the same. Each company made application to the Board of Railroad Commissioners for a certificate under the statute which provides that "No railroad corporation hereafter formed under the laws of this state shall exercise the powers conferred by law upon such corporation or begin the construction of its road until the Board of Railroad Commissioners shall certify 'amongst other things' that the public convenience and necessity requires the construction of said railroad as proposed in said articles of association." L. 1892, Chapter 676, Section 59. The two applications were heard together, and the Board of Railroad Commissioners granted the application of the Terminal Railway, and issued certificate to the effect that the public convenience and necessity required the construction of the railroad proposed by the articles of association of that company. The Board denied the application of the Depew and Southwestern Railroad Company. The case was brought here pursuant to the

statute which provides that "After a refusal to grant such certificate, the Board shall certify a copy of all maps and papers on file in its office and of findings of the Board when so requested by the directors" who "may thereupon present the same to the General Term of the Supreme Court of the department within which said road is proposed in whole or in part to be constructed, and said General Term shall have power, in its discretion, to order said Board for reasons stated, to issue said certificate, and it shall be issued accordingly." L. 1892, Chapter 676, Section 59.

The convenience and necessity of a railroad from Depew to Blasdell is not questioned, and for the purpose of facilitating transportation of freight both east and west between New York and Chicago, its importance is apparent. It will shorten the distance about six miles and the time about that number of hours, and will obviate the necessity and inconvenience of taking freight cars through the city of Buffalo, to interchange with connecting roads. There are five railroads passing through Blasdell to be brought into more immediate or direct connection with four at Depew by the proposed line between those two places. Both companies in their organization complied in all respects with the statute, and did all that was essential preliminarily to the application to the Board, proceeded in good faith, and had the purpose and ability to construct the road proposed by their articles of association. But the public convenience and necessity required the construction of only one line of railroad having those termini. The question as treated by the Board was one of preference between them. In this it is insisted on the part of the Depew and Southwestern Railroad Company, that the Board misapprehended its powers given by the statute and in violation of it issued the certificate in behalf of the Terminal Company that it was within the province of the Board to determine whether or not the public convenience and necessity required a railroad having the proposed termini, and that when that was determined in the affirmative the Delaware and Southwestern Company was, by reason of the priority of its corporate creation, entitled to the benefit of the certificate which the Board was thereupon required to issue. The directors of both companies proceeded concurrently in process of organization. While the articles of association of the Terminal Company were executed two days prior to those of the Depew and Southwestern Railroad Company, the latter was by the filing of them incorporated two days earlier than was the other company. The application of each of the companies for hearing was filed with the Board the same day, the publication of the articles of association of both companies occupied the same time, the notices for hearing were given at and for the same time, and the applications were heard together. It may be that the situation presented in this case was not contemplated by the statute. And in case of competing companies in applications made to the Board

there may be some reason in the matter of fairness and propriety for granting the certificate to the one first incorporated, other things being equal as between them. But it is not seen that there is any vested legal right of any one of two or more companies making applications, concurrently heard and considered by the Board, to have the benefit of a certificate upon its determination that public convenience and necessity for the proposed railroad exists.

Without the aid of some statute to that effect the priority in such case of corporate existence does not necessarily furnish priority of local right as against a competing application to the Board. There is no statute in support of such a proposition applicable to that stage of the corporate action of a railroad company. While the creation of a railroad corporation is a right to be exercised in the manner provided by the statute, the right to exercise the power of proceeding to the construction of its proposed railroad is subject to and dependent upon the supervisory consideration of the Board and its certificate preliminarily made that "public convenience and necessity requires the construction of said railroad as proposed in said articles of association." This has reference to the articles of association of some particular company to be mentioned in the certificate. It would not answer the purpose of the statute for the Board to certify merely that public convenience and necessity required the construction of a railroad having the termini mentioned. It is to certify that such convenience and necessity require the construction of the road as proposed in said articles, and the certificate is apparently available only to the company having the articles thus mentioned in the certificate. And although the termini described in the articles of both companies were the same, it may be assumed that as represented by the maps and profiles there was some distinguishing features in the route or line of the road as proposed by the companies. In reaching the conclusion essential to the issuing of a certificate the Board act judicially, and when, after refusal to grant it, the matter is brought to the General Term, the action of the court is in the nature of a review of the determination of the Board, and the burden is with the moving company to make it affirmatively appear that the Board erred in its conclusion and in its refusal of the certificate upon the facts as presented to it. The reasons given for the action of the Board do not necessarily control the disposition to be made of the case on the review unless the facts required a different conclusion on the hearing. It is not enough to overcome the refusal there that the facts merely permitted the issuing of a certificate nor unless the determination of the Board was contrary to the clear weight of the evidence. Its judgment is entitled to support so far as it is fairly justified by the facts, the same as is that of any other tribunal subjected to review. People vs. Ulster & D. R.R. Co., 58 Hun, 267; Matter of New Hamburgh

R.R. Co., 76 Id. 76; Matter of Amsterdam, J. & G. R. Co., 86 Id. 578. The only power of the General Term to reconsider the action of the Board is that given by the statute before referred to, and it can be sought and exercised only when the certificate is refused. In the present case it was denied to the Depew and Southwestern Railroad Company, and that refusal is subject to review by this court. The propriety of granting the certificate to the Terminal Company cannot be the subject of consideration in this matter. The claim urged in behalf of the moving company that it was not within the power of the Board to deny to it the certificate and to grant one to the other company presents a question which can only be considered and determined elsewhere than on this statutory review. The suggestion that in this matter the court may reverse the action of the Board in granting the certificate and direct it to issue one to the Depew and Southwestern Railroad Company, or require the Board to issue a certificate to the latter company and place the other company in a subordinate relation to it in respect to the right to proceed in the construction of the proposed railroad, is not tenable. No such power is within the contemplation of that given by the statute from which the court derives all its power in a proceeding of this character. The issuing of the certificate in behalf of the one company was not the refusal of a certificate in behalf of the other, although it furnished to the Board a reason for the denial of one to the latter company. The relative merits of the two companies on whatever grounds or for whatever reasons they may be claimed to exist in favor of one and against the other company as respects their applications to the Board are not here for consideration. It was in the power of the Board to issue a certificate, and having granted the certificate in behalf of the Terminal Company, refused a like certificate to the other company. With the certificate issued we have nothing to do except so far as it bears upon the question whether public convenience and necessity require the construction of more than one railroad having the termini before mentioned.

It cannot well be urged that such necessity exists, or that the Board was required to issue more than one certificate for that purpose. And since this was done the refusal to grant another certificate to the Depew and Southwestern Railroad Company requires no further consideration.

The application for direction to the Board of Railroad Commissioners should therefore be denied.

All concur.

APPENDIX.

Decisions and Recommendations:
- Executive and legislative references.
- Complaints of cities, towns, etc.
- Stations and station buildings.
- Applications for change of motive power.
- Applications for increase of capital stock.
- Applications for railroad construction and extension (section 59 of Railroad Law).
- Applications for exemption from the Automatic Coupler Act.
- Applications for approval of cooking stoves in dining cars, etc.
- Inquiries.
- Applications for approval of highway crossing signs.
- Crossings at grade.
- Change of name.
- Abandonment of part of route.
- Change of gauge.
- Unfinished business.
- Accidents.
- Accident inquiries.

Length of railroads.
Inspections.
Minutes of Board.
Companies formed.
Companies reorganized.
Companies consolidated.
Extension of routes.
Increase of capital stock.
Leased roads.
Reduction of number of directors.
Increase of number of directors.
Surrender of capital stock.
Amended certificate of incorporation.
Abandonment of part of route.
Certificates under section 59 of the Railroad Law, filed in Secretary of State's office.
Enactments of year.
Alphabetical list of all companies formed under laws of this State.
Directions for making annual and quarterly reports.
Rules of procedure.
Proposed Grade Crossing bill.

LAWS.

"Condemnation Law."
"General Corporation Law."
"Stock Corporation Law."
"Railroad Law."
General acts relating to railroads not embraced in the above laws.
Extracts from Code of Criminal Procedure.
Extracts from Penal Code.
Rapid Transit Act (Laws of 1891 as amended).
Interstate Commerce Act (as amended).

DECISIONS AND RECOMMENDATIONS

EXECUTIVE AND LEGISLATIVE REFERENCES.

I.

RELATIVE TO AN ACT TO REGULATE PUBLIC TRAVEL UPON ELEVATED RAILROADS IN CITIES OF OVER ONE MILLION INHABITANTS.

ALBANY, N. Y., *June* 14, 1895.

To the Governor of the State of New York:

The Board of Railroad Commissioners returns the copy of Assembly Bill No. 6, being "an act to regulate public travel upon elevated railroads in cities of over one million inhabitants," and reports thereon as follows:

First—The bill is objectionable in that it is special and local legislation in fact while general in form. There is but one city in the State of over one million inhabitants, although the title of the bill uses the word "cities." Moreover, there is no sound basis for a distinction such as is here made between a city of a million inhabitants and a city containing nearly one million or even half a million of inhabitants.

Second—The proposed legislation is indiscriminate, in that it attempts to impose an outline of a schedule upon every corporation or company owning or operating an elevated railroad, and upon each and all of its roads and branches. Obviously, this sort of legislation may be merely annoying without accomplishing any purpose of value to the public. Upon some parts of a large system, such as exists in New York, and in Brooklyn, it may be unwise to enforce such a schedule as is proposed in this bill. This feature of the bill might operate also to check railroad construction. It may well happen that a new road in some parts of Brooklyn or in New York would be profitable if its promoters were not subject to the provisions of this law, but unprofitable if the bill should become a law.

Third—The legislation here proposed is not needed. Corporations such as are contemplated in this bill exercise their powers under charters which impose upon them the obligation of operating their roads in such manner as to afford security and accommodation to the public. The regulative power of the State over such corporations is amply expressed in those sections of the General Railroad Law which state the powers and duties of this Board, and of the Attorney-General and the Supreme Court in connection with any recommendation of the Board. Under those provisions, if a railroad corporation neglects in any respect to comply

with the terms of the law by which it was created, or refuses to comply with any recommendation of the Board touching the manner of its operation, the Board may forthwith present the matter to the Attorney-General. That official, together with the Supreme Court at Special Term, has power to take proceedings and compel compliance with such recommendations by mandamus. These provisions of existing law form a more harmonious and judicious method of control than this bill furnishes.

COMPLAINTS

OF

CITIES, TOWNS, ASSOCIATIONS, INDIVIDUALS, ETC.

I.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF DEPOSIT AGAINST THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY, RELATIVE TO ENGINE STANDING UNDER BRIDGE AT DEPOSIT.

September 15, 1894.

This complaint was made on August 14, 1894, by C. E. Scott, attorney for the officers and the citizens of the village of Deposit, alleging that engines on the New York, Lake Erie and Western Railroad were stopped beside the bridge crossing the Delaware River at said village, for the purpose of taking water, and that the noise of the whistle, safety valve and bell of the engine and smoke from the smokestack directly under the highway, made it dangerous and even impossible to drive horses over the bridge. The company replied that efforts would immediately be made to correct the cause of the complaint, and no further communications being received from Mr. Scott, the case was, on September 15, ordered closed.

II.

IN THE MATTER OF THE COMPLAINT OF JOHN G. PUGH AGAINST THE BUFFALO, ROCHESTER AND PITTSBURG RAILROAD COMPANY, IN THE MATTER OF FENCES.

October 29, 1894.

On September 13, 1894, Mr. Pugh complained that the fences were not properly maintained along his property on the line of the Buffalo, Rochester and Pittsburg Railroad. The complaint was transmitted to the company, and on October 13, a reply was received stating that the fences had been repaired. On October 18, the complainant notified the Board that the cause of complaint had been removed by the railroad company and asked that the case be discontinued.

III.

IN THE MATTER OF THE COMPLAINT OF H. M. THOMPSON AGAINST THE BROOKLYN HEIGHTS RAILROAD COMPANY, THE BROOKLYN CITY RAILROAD COMPANY, AND THE LONG ISLAND TRACTION COMPANY.

December 10, 1894.

On October 16, 1894, the following was received from H. M. Thompson:

NEW YORK, *October* 15, 1894.

To the Honorable Board of Railroad Commissioners of the State of New York, Albany, N. Y.:

GENTLEMEN:—The Long Island Traction Company is a corporation formed under the Laws of West Virginia, with a capital of $30,000,000 which was issued at fifteen (15) cents on a dollar, or $4,500,000.

The Brooklyn Heights Railroad Company is a corporation formed under the Laws of the State of New York, April 1, 1887, and owns a railroad one-half mile long in the city of Brooklyn. The capital stock of this company, amounting to $200,000, is owned or controlled by the Long Island Traction Company. It had also a bonded debt of $250,000.

The Brooklyn City Railroad Company is a corporation formed under the Laws of the State of New York, December 17, 1853, and owns a system of railroads ninety-five and one-half (95½) miles long in the city of Brooklyn, and has a capital stock of $12,000.000 and a bonded debt of $6,925,000. This railroad, together with all equipment, real estate, etc., is operated by the Brooklyn Heights Railroad Company under a lease bearing date February 14, 1893.

The Long Island Traction Company, I am informed, has never made any report to your Board.

The Brooklyn Heights Railroad Company, as owner and lessee, and the Brooklyn City Railroad Company, as owner and lessor, have made reports to your Board for the fiscal years ending June 30, 1893, and 1894.

I am a stockholder in the Long Island Traction Company, and the purpose of this communication is to present to you certain objections to these reports, which are as follows:

REPORT OF BROOKLYN HEIGHTS RAILROAD COMPANY, JUNE 30, 1894.

Page 7. Rentals paid, $1,434,941.50. No details to show what is included in this, and it is at variance with page 7 of the Brooklyn City Railroad Company's report as to rentals received. All other fixed charges differ in large amounts, and the difference seems too large in taxes to be accounted for by taxes paid on property of the Brooklyn Heights Railroad Company proper.

Page 9. Renewals of horses, $11,160. As the horses on hand June 30, 1893, page 722 of 1893 report of Railroad Commissioners, numbered 4,648, few, if any, purchases were necessary to finish up the operation by horse power, therefore the 4,648 horses leased must have been sold or worn out, and no expenditure of capital was necessary to keep up stock; that being so, this account should be charged with a certain

depreciation from invoice price, or else large earnings would be derived from motive power, which costs nothing.

Page 9. Trucking credit, $139,311.39. What item in operating expenses was this amount charged to that it should be credited to operating expenses? What account was it debited to, to balance this credit, and for what reason?

Page 9. Repairs roadbed, etc., $141,570.53. Does this contain any of the cost of changing road from horse to electric power, or was that all charged to Brooklyn City Railroad construction account? It certainly is a very large expenditure for repairs of a road, the larger part of which had been laid out about one year, and the cost of which was so large as to warrant the belief that it was an extraordinarily well-built road, and that no repairs of consequence would be required for *at least five years.*

REPORT OF BROOKLYN CITY RAILROAD, JUNE 30, 1894.

Page 5. Interest charged to construction, $152,345.78, $117,619.67 of which is in 1893 report, page 720 of Railroad Commissioners' report. This is not a proper charge here, but should be charged against income. There was plenty of capital stock and bonds on hand, and money was borrowed to save interest, as the loans could be obtained at four and five per cent., while dividends on the stock would have been eight per cent. Certainly, if the stock and bonds had been issued, dividends on stock and interest on bonds would not be a proper charge to construction. No such practice obtained with this company in former years. All payments of interest on floating debt were charged against income, and would have been in this instance had not my figures been reversed. In the report to your Board for quarter ending September 30, 1892, made by me as secretary and treasurer, I charged against income an estimated amount for that quarter for interest on loans. In the report for quarter ending June 30, 1893, made under oath by my successor in office (Mr. Bogardus), my charges were reversed by saying "improperly estimated," but no explanation was offered as to why, and as I made my report under oath, and still adhere to the correctness of that report, I respectfully request that your honorable Board take measures to set this matter right.

In report of June 30, 1893, page 721 of the Railroad Commissioners' report, $90,000 is credited to income for interest on stock issued for construction. If this credit is proper, the debit should be against income as well.

Page 6. Reconstructing roadbed, etc., $1,184,557.29, and for same purpose in 1893 report, page 721 Railroad Commissioners' report, $1,044,511.90. Altering depots, $117,012.75. Altering horsecars into electric cars, $327,372.02. Was any proportion of these kinds of expenditures charged to operating expenses? In the above payments for reconstructing roadbed, is there included any payments for repairs of tracks after rails were laid? As this road was fully constructed and equipped before the change from horse to electric power, and the cost thereof charged to construction and equipment paid for from proceeds of stock and bonds, it is not proper under a simple change of the motive power to charge the entire cost thereof to construction and equipment. If horse power had been continued, the cost of relaying worn-out tracks and

replacing worn-out equipment would have been charged to operating expenses as repairs, the company having earned its profits out of the capital originally invested. Therefore, capital account should be charged only with betterments of the new road over the old, and all new work pertaining to electric traction exclusively, and the balance should be charged against earnings as repairs. As to repairs of rails after laying; to charge maintenance to construction account is so much water, and when you inventory road, you will find construction account debited with more than inventory, if everything is taken at cost. Road once constructed and equipped must be kept up to cost by repairs charged to operating expenses; but if renewals and rebuilding are charged to construction, that account will finally be debited with more cost than stock outstanding, and if stock is increased to balance that, an inventory of road and equipment will show prices paid double of what it could have been furnished for, and stockholders will find that they do not own as much property as they had been led to believe by published reports.

Page 7. Rentals, fixed charges, dividends, etc., do not correspond with payments by Brooklyn Heights Railroad Company. The rental should be credited in full, and the payments would balance it, and the deficit of $812,041.94 should not appear, as on page 1 it gives terms of lease to be payments of fixed charges, dividends, interest, etc.

About August, 1892, your Board granted to the Brooklyn City Railroad Company an increase of its capital stock from $6,000,000 to $12,000,000, at which time there was filed with you an estimate of the cost of changing the motive power which, under a liberal allowance, was less than $7,000,000. There was then $3,000,000 of the first mortgage bonds unissued, which were reserved in most part for any needed extensions. The stock was placed at par, producing $6,000,000; the bonds were placed at a premium, and produced $3,212,916 (as per report), and there has been taken from the guarantee fund of the Long Island Traction Company $250,000, and collateral trust notes have been issued, as I am informed, for $3,000,000, making an amount of capital produced of $12,462,916. In addition, horses have been sold for quite an amount.

What the exact expenditure has been on account of construction and equipment I am unable to say, but if the item for interest on loans, now charged to construction, be transferred to the debit of income, where, I claim, they properly belong, and if there be proportions of the cost of changing motive power, and charges for repairs of rails to be credited to construction and equipment and debited to income, which an examination of the books will decide, then there will be a material correction to be made in the income account of this property as shown in the reports.

When the Long Island Traction Company was formed the stockholders of the Brooklyn City Railroad Company were invited to invest in its stock, it being represented that the lease of the Brooklyn City Railroad Company system would be very profitable, and there were other securities held by the company which were a further guarantee that the investment was a good one. Under date of September 5, 1894, the directors of the Long Island Traction Company issued a circular to its stockholders stating that more money was needed, and collateral trust notes for $3,000,000 had been created, secured by an assignment of all its rights, title and interest in these securities. These notes were to be payable in

three years, with interest at six per cent., and were to be floated at a discount of from fifteen to twenty per cent. This scheme, as presented, subordinates the stockholders to the noteholders, and the former must be satisfied with the usual estimate of future profits, while the management will be controlled by three persons to act as trustees and to whom is to be assigned the voting power on the stock of the lessee, the Brooklyn Heights Railroad Company, until the notes are paid.

In view of the foregoing, I respectfully request that your honorable Board order an investigation of the accounts and affairs of these companies, to the end that those who are interested may know the actual condition of the property.

Very respectfully,

(Signed.) H. M. THOMPSON,
26 Cortlandt Street, New York.

A copy of this complaint was forwarded to Daniel F. Lewis, president of the Long Island Traction Company; to Edward Merritt, president of the Brooklyn City Railroad Company, and Daniel F. Lewis, president of the Brooklyn Heights Railroad Company, in reply to which the following were received:

LONG ISLAND TRACTION COMPANY.

November 10, 1894.

To the Honorable Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN:—Your favor of the thirtieth ultimo containing a complaint of H. M. Thompson against the Brooklyn Heights Railroad Company, the Brooklyn City Railroad Company and the Long Island Traction Company has had careful consideration. The reply thereto on the part of the Brooklyn Heights Railroad Company has been forwarded to-day. The Long Island Traction Company is a corporation organized under the Laws of the State of Virginia, and is not a railroad corporation. We are, for this reason, under the impression that you will not care to take up the examination of the books and accounts of that company, particularly as the books of the Brooklyn Heights and Brooklyn City Companies will furnish a complete answer to the charges made.

Yours very respectfully,

(Signed.) DANIEL F. LEWIS,
President.

BROOKLYN CITY RAILROAD COMPANY.

November 9, 1894.

To the Honorable the Board of Railroad Commissioners:

GENTLEMEN:—Your favor of the thirtieth ultimo, addressed to Daniel F. Lewis, president of the Brooklyn Heights Railroad Company, containing a copy of the complaint of Henry M. Thompson against the Brooklyn Heights Railroad Company, the Brooklyn City Railroad Company and

the Long Island Traction Company was referred to us by Mr. Lewis, and the complaint has been carefully considered.

So far as the complaint relates to the accounts of the Brooklyn City Railroad Company we believe that the accounts of that company are correct, and that the claims of the complainant in criticism of those accounts are absolutely untenable and unfounded.

If you desire to verify this, we request that you will appoint a representative from your Board to make such examination of our books and accounts as you may deem desirable, and so assure yourselves of their correctness, and we further request that such examination be made as soon as possible.

Yours respectfully,
THE BROOKLYN CITY RAILROAD COMPANY,
(Signed.) EDWARD MERRITT,
President.

BROOKLYN HEIGHTS RAILROAD COMPANY.

November 10, 1894.

To the Honorable Board of Railroad Commissioners, Albany, N. Y:

GENTLEMEN:—Your favor of the thirtieth ultimo, containing a copy of complaint of H. M. Thompson against the Brooklyn Heights Railroad Company, the Brooklyn City Railroad Company and the Long Island Traction Company, is at hand and contents carefully noted.

It is not practicable to make a written answer to the complaint in order to do this subject justice; and to satisfy your honorable Board of the incorrectness of the charges of the said Thompson, and of the propriety of the manner in which our business has been conducted, including the accounts of the company, we would respectfully request that you appoint a representative from your Board to make such examination of the books, accounts and property of the company as you might deem wise and proper, and in that way secure for yourselves an intimate knowledge of the affairs of the company, and also satisfy yourselves of the correctness of its accounts. We urgently request that such examination be made at the earliest possible date. Regarding the reference to the Brooklyn City Railroad Company's accounts in your said favor of the thirtieth ultimo, and the request for an answer from that company, I would state that you will receive a separate reply from them.

Yours very respectfully,
(Signed.) DANIEL F. LEWIS,
President.

On November 12, the Secretary of the Board was directed to examine the books and accounts of the Brooklyn Heights and Brooklyn City Railroad Companies, and on December 10 he reported as follows:

ALBANY, *December* 10, 1894.

To the Honorable the Board of Railroad Commissioners of the State of New York:

GENTLEMEN:—Pursuant to a resolution passed on November twelfth by your honorable Board, I have examined the books and accounts of

the Brooklyn Heights and the Brooklyn City Railroad Companies. This examination was ordered upon the receipt by the Board of certain charges against these companies by Mr. H. M. Thompson, a stockholder of the Long Island Traction Company. The two railroad companies joined in requesting the Board to order such an examination. The examination was begun on November nineteenth and concluded on November twenty-eighth.

HISTORY OF ORGANIZATION.

The Brooklyn City Railroad Company.

This corporation was organized under the laws of this State upon December 17, 1853. Prior to 1892 its original capital of $2,000,000 had been increased, as its business expanded and as it absorbed other lines, to $6,000,000. In 1892 your Board granted permission to the company to increase its capital to $12,000,000, for the purpose of changing the system from horse power to electricity. This work of conversion is still in progress. In addition to its capitalization of $12,000,000, the Brooklyn City Company has issued bonds to the amount of $6,000,000, and has assumed a funded indebtedness of acquired lines to the amount of $925,000, making its total obligations, including capital stock, $18,925,000.

The Brooklyn Heights Railroad Company.

The Brooklyn Heights Railroad Company, chartered April 1, 1887, is a cable road, having a total length of 1.166 miles, running on Montague street, Brooklyn, from Court street to the Wall Street ferry. Its capital stock is $200,000 and its bonded indebtedness $250,000. All of the stock of this company, except a sufficient number of shares to qualify its directors, is owned by the Long Island Traction Company.

The Long Island Traction Company.

The Long Island Traction Company is a corporation organized under the laws of Virginia. The charter bears the date of March 19, 1893. Its incorporators were: Felix Campbell, of Brooklyn, president and director; Crowell Hadden, of Brooklyn, vice president and director; Henry A. Murray, of New York city, treasurer; John B. Summerfield, of Brooklyn, secretary and director; Silas C. Dutcher, of Brooklyn, director, and George W. Young, of Jersey City, director. The purposes for which the company was formed are "to conduct the business of purchasing, acquiring, holding, improving, developing, leasing, exchanging and selling real and personal property, including machinery, patent rights, letters patent and other rights for the supplying of power or the use thereof to, upon or in work owned, leased or controlled by any railroad corporation or other corporation or individual, and to aid any corporation or individual in the construction, repair, improvement or extension of any such or other works by the advancing of money, the furnishing of credit or otherwise, and also to purchase, subscribe for or otherwise acquire for any valid consideration, and to hold, use and dispose of the stocks, bonds and other evidences of indebtedness of any corporation, domestic or foreign, with which it may have business rela-

tions, or may have power to contract, and to issue in exchange for said stocks, bonds and other evidences of indebtedness its own stock, bonds or obligations."

According to the statement of the officers, the capital stock of this company, 300,000 shares of $100 each, par value, aggregating $30,000,000, was issued for property consisting of stock and contracts, and for cash provided, out of which cash the $4,000,000 guarantee fund under the Brooklyn City lease was furnished and deposited. The total amount of cash paid in was $4,500,000, and in addition to the controlling ownership of the stock of the Brooklyn Heights Company, the Long Island Traction Company also owns all of the stock of the Brooklyn, Queens County and Suburban Railroad, except such as is held by the directors to enable them to qualify.

Lease of The Brooklyn City Property.

On February 14, 1893, the Brooklyn City Railroad Company executed a lease of all its properties, including franchises, rights of way, real estate and equipment to the Brooklyn Heights Railroad Company for 999 years, the consideration being the payment by the Brooklyn Heights Company of a ten per cent. dividend on the capital stock of the Brooklyn City Railroad Company and all other fixed charges, including interest on its bonded indebtedness and organization expenses. By the terms of this lease the Brooklyn City Railroad Company was to expend in the conversion of its various systems from horses to electricity all of the moneys it received from the sale of $3,000,000 of capital stock and $3,000,000 of bonds, authorized but unissued at the time of the lease, and was to reserve to itself whatever surplus moneys resulting from previous operation there remained on hand at the time the control of the property was assumed by the Brooklyn Heights Company and whatever premiums were realized from the sale of its stock and bonds. All accrued obligations at the time of taking possession were to be paid by the Brooklyn City Company. The cost of such construction as remained uncompleted and such extensions as are from time to time necessary or desirable is to be paid for by the Brooklyn Heights Railroad Company and is to become a contingent charge against the Brooklyn City Company, to be adjusted at the termination of the lease, or at such time and in such manner as may be agreed upon by the lessee and lessor corporations. To guarantee the faithful performance of the conditions of the lease, the lessee company agreed to deposit and did deposit in various trust companies and banks a guarantee fund of $4,000,000, the income of which is to be paid to the lessee company. In case of default in the payment of any of the fixed charges of the lessor company, the lessee company is authorized to use $250,000 of the guarantee fund, but no part of the guarantee fund can be impaired to an extent which shall reduce such fund below $3,750,000. The lessee company took possession of the property of the Brooklyn City Company and began operation of the same on June 6, 1893, and has since continued to operate said system. On June 30, 1894, the Brooklyn City Railroad Company reported a total construction and equipment account of $18,839,934.13. Since that date all of the funds of the Brooklyn City Railroad Company, except its surplus, have been expended in construction expenses, and the completion of the conversion, together with extensions and the construc-

tion of new roads, is now carried on by the Brooklyn Heights Company, under agreements and conditions provided for in the lease.

The total length of all tracks and sidings owned by the Brooklyn City Company and operated by the Brooklyn Heights Company, at the date of the last report, June 30, 1894, was 199.02 miles.

It is proper to state that every facility for a full examination of the books and accounts of the Brooklyn City and Brooklyn Heights corporations, was afforded your examiners by the officials of the respective roads. The accounts of the Brooklyn City Company were examined back to September 30, 1889, the date of the last examination by a representative of your Board. In the case of the Brooklyn Heights Company, it having been operating the lines of the Brooklyn City system only a year, a verification of its last annual report and of its quarterly statement rendered September 30, 1894, was deemed sufficient.

The method of accounts and the bookkeeping of the Brooklyn Heights Company are admirably adapted to its purposes as lessee of the Brooklyn City system. The statements of its receipts are in such form and are so protected by checking devices and detailed reports, as to set forth the total income of the company for each day in a complete and correct manner, and also so as to place before the president on the succeeding morning an exhibit of the gross earnings upon each line operated, together with the number of cars in operation, the number of trips, the mileage of cars, the wages of of employes and the net earnings after deducting wages. The expenditures of the corporation are controlled by requisitions, orders, audits and certifications by the various officers and employes through whose hands these accounts pass. By the auditing system in use, each entry upon the books or the corporation is certified to, first, by the auditing committee of the board of directors, then by the president, secretary and treasurer, and by each employe through whose hands the voucher passes. This elaborate and comprehensive system of accounting was devised by W. A. H. Bogardus, the secretary and treasurer of the company, and is so complete as to deserve notice and commendation.

The Brooklyn City books are the same as those used at the time of the organization of the road in 1853, the same ledger being still in service. No fault can be found with their accuracy, but more elaborate methods should have been adopted when the change of motive power was made from horses to electricity in order that there could have been a more intelligent division of the items of expense. The present secretary of the company, Mr. Swin, appreciates the necessity for a change in system to more nearly conform to the system of the lessee road, and a new set of books will be opened forthwith.

FINANCIAL CONDITION.

The following statements, tables and comparisons fully explain the financial condition of the companies under examination, the annual report of the Brooklyn Heights Company being analyzed first, as it is the operating company. The criticisms of Mr. Thompson may be briefly summarized as follows:

Brooklyn Heights: Rentals paid, $1,434,941.50, no details to show what is included; differences in other fixed charges deducted from income; renewals of horses, $11,160; trucking credit, $134,311.39; re-

pairs of roadbed, $141,570.53, "no repairs of consequence would be required on a well-constructed electric road for five years."

Brooklyn City: Interest charged to construction, $152,345.78, "not a proper charge, should be against income;" this amount also includes $90,000, dividend on stock, charged to construction, which Mr. Thompson inquires about; reconstructing roadbed, general criticism on charges to construction; rentals, fixed charges and dividends "do not correspond with payments by Brooklyn Heights Company;" general criticism of construction account of the company.

BROOKLYN HEIGHTS RAILROAD COMPANY.

Annual Report for the Year Ending June 30, 1894.

Stock and Bonds:		
Capital stock		$200,000 00
Bonds at five per cent. per annum		250,000 00
Cost of Road and Equipment:		
Cost of road		$447,685 71
Cost of equipment:		
Cable cars and fixtures	$5,775 60	
Horses	53,118 81	
		58,894 41
		$506,580 12

Among the various items of property received by the Brooklyn Heights Company, as lessee from the Brooklyn City Company, were the horses which had been used in the operation of the Brooklyn City Company. Concerning these horses the two companies made a special arrangement, fixing upon them a price of $185,920, with the condition that the Brooklyn Heights Company should make payments on this account as fast as it sold the horses, or in proper proportion as the horses died. Such payments were to be credited by the Brooklyn City Company to its equipment account. The books show that these credits have been properly made, and the item of $53,118.81 is the inventoried value of the horses now in the possession of the Brooklyn Heights Company. The Brooklyn City Company has received $151,896, leaving $34,024 still due to it upon this account.

INCOME.

The income statements of the two roads must be considered together in order to arrive at an intelligent understanding of the transactions involved. The year ending June 30, 1894, was the first under the operation of the lease. The Brooklyn Heights Company had been in possession of the property during part of the month of June, 1893, but there was no adjustment or settlement of the accounts between the two roads until the construction fund of the Brooklyn City Company was exhausted. During the greater part of the year, therefore, the Brooklyn City was expending money on account of its own construction, and the Brooklyn Heights was also expending money on account of Brooklyn City con-

struction, for which it was from time to time reimbursed. The Brooklyn Heights Company opened a set of books differing in many respects, as to the division of charges, from those of the Brooklyn City Company, going more into detail, in order to meet the requirements of the new business, in respect to which the Brooklyn City books were inadequate. At the outset it was assumed that all charges for taxes and interest should be paid directly by the Brooklyn Heights Company, and this method prevailed for a time. Then it was decided that as the Brooklyn City Company was the owner of the property, it should have the original receipts for all payments, and thereafter the rental for these purposes was paid to and distributed by the Brooklyn City Company. The result of this complication and the fact that charges and counterclaims were sometimes adjusted by charges and credits without the actual transfer of money, caused much confusion, and the further fact that the Brooklyn City Company was not always prompt in adjusting the accounts so far as the entries on its books were concerned, some of which were still unadjusted at the time of this examination, led to discrepancies in the rental statements. The net difference in dispute, however ($281.03), is so small as to be unworthy of attention, and the accounts would probably have balanced had the blank issued by this Board, upon which the report was made, been more comprehensive in its requirements, and the necessity for prompt adjustment thus been called to the attention of the officers of the two companies. Unless the form of the blank is changed, there will be apparent discrepancies each year between these two companies and between all other companies similarly related to each other, for the reason that the lessor road can only report its actual cash transactions in its rental account, while the lessee road will report in total, not only the amounts it paid for rental (including all charges), but the amounts due and accrued, and the interest and tax charges upon its own property. In the future, however, the Brooklyn Heights Company, in compliance with the suggestions of your examiner, will report annually in detail the total amount paid to the Brooklyn City Company, and on what account; the charges due and accrued deducted from income, and on what account, and also will separate such payments from the payments and charges upon its own property. The Brooklyn City Company will report its rental in detail and its disbursements as now required by the blank, and its report should in future balance with the amounts in the Brooklyn Heights account reported to have been paid. A thorough examination of the books and vouchers of the Brooklyn Heights Company relative to its income account, warrants the statement that the income account of that company is a correct showing of its payments to and on account of the Brooklyn City Company. A new set of books, which will be more in harmony with those of the lessee company, will be opened by the Brooklyn City Company as soon as final adjustment is made of the minor disputed items.

The following are the statements in detail with analysis and explanation of the income accounts of the two companies for the year ending June 30, 1894:

Income Account.

Gross earnings from operation	$4,303,117 45
Less operating expenses (excluding taxes)	2,673,391 73
Net earnings from operation	$1,629,725 72

Income from other sources as follows, viz.:

Interest on guarantee fund and miscellaneous interest and rentals			189,339 49
Gross income from all sources			$1,819,065 21
Deductions from income as follows, viz.:			
Taxes on property used in operation of the road:			
On account Brooklyn Heights	$2,314 63		
Paid Brooklyn City, rental	130,249 74		
Paid direct on account rental	17,597 77		
Due Brooklyn City, rental	4,091 18		
Accrued, not due	82,586 41		
		$236,839 73	
Taxes on earnings and capital stock:			
On account Brooklyn Heights	$21,420 20		
Paid Brooklyn City, rental	8,356 82		
Accrued, not due	19,500 00		
		49,277 02	
Taxes on other than above:			
Paid Brooklyn City, rental	$2,985 23		
Paid direct on account, rental	1,566 28		
Accrued, not due	17,958 90		
		22,510 41	
Interest on funded debt (all on account Brooklyn Heights), due and accrued:			
On bonds	$12,500 00		
On floating debt	8,444 13		
		$20,944 13	
Rentals:			
Paid Brooklyn City, dividends	$833,262 01		
Paid Brooklyn City, interest	120,999 62		
Interest on mortgage, paid direct	81 24		
Rents, paid direct	18,997 66		
Due Brooklyn City, dividends	300,000 00		
Due Brooklyn City, interest	151,017 67		
Interest accrued, not due	10,583 30		
		1,434,941 50	
			$1,764,512 79
Net income from all sources			$54,552 42
Surplus June 30, 1893			60,968 36
Total surplus June 30, 1894			$115,520 78

BROOKLYN CITY RAILROAD.

Income Account.

Gross earnings from operation			$2,149 01
Less operating expenses (excluding taxes)			22,374 64
Net deficit from operation			$20,225 63
Income from rental, viz.:			
Dividends		$833,262 01	
Interest on funded debt		121,733 30	
Taxes on real estate		132,603 72	
Taxes on earnings and capital stock		8,356 82	
Assessments		1,376 64	
			$1,097,332 49
Gross income from all sources			$1,077,106 86
Deductions from income as follows, viz:			
Taxes on property used in operation of road:			
Proportion due from and paid by Brooklyn City Railroad	$58,023 69		
Amount paid by Brooklyn Heights to Brooklyn City railroad	132,603 72		
Amount due from Brooklyn Heights paid by Brooklyn City railroad	3,626 85		
		$194,254 26	
Taxes on earnings and capital stock:			
Proportion due from and paid by Brooklyn City railroad	$30,992 14		
Amount paid by Brooklyn Heights to Brooklyn City railroad	8,356 82		
		39,348 96	
Taxes other than above:			
Paid Comptroller for railroad commission due from and paid by Brooklyn City railroad		1,349 41	
Interest on funded debt:			
Amount paid by Brooklyn Heights to Brooklyn City railroad	$121,733 30		
Amount due from Brooklyn Heights paid by Brooklyn City railroad	$150,283 96		
		$272,017 26	
Interest on floating debt:			
Due from and paid by Brooklyn City railroad		$8,916 90	
			$515,886 79
Net income from all sources			$561,220 07

Payments from net income as follows, viz.:

Dividends paid by Brooklyn Heights:			
Two and one-half per ct. on $9,706,130	$242,653 25		
Two and one-half per ct. on $11,624,350.40	290,608 76		
Two and one-half per ct. on $12,000,000	300,000 00		
		$833,262 01	
Due from Brooklyn Heights, advanced by Brooklyn City, two and one-half per ct. on $12,000,000		300,000 00	
Paid from surplus by Brooklyn City railroad two per ct. on $12,000,000		240,000 00	
			1,373,262 01
Deficit as reported for year ending June 30, 1894			$812,041 94
Surplus, June 30, 1893		$719,913 77	
Premiums on stock		7,941 66	
Premiums on bonds		212,916 00	
Due from Brooklyn Heights on account of rental, payable July 1, 1894		453,604 92	
			1,394,376 35
Total surplus June 30, 1894			$582,334 41

Statement of deficit June 30, 1894.

Due from Brooklyn Heights Railroad:		
For dividends	$300,000 00	
For taxes on property used in operation	3,626 85	
For interest on funded debt	150,283 96	
		$453,910 81
Dividend paid from Brooklyn City surplus		240,000 00
Brooklyn City Railroad proportion of taxes and interest		99,282 14
Deficit in operation account		20,225 63
		$813,418 58
Less amount paid by Brooklyn Heights to Brooklyn City Railroad and credited to real estate		1,376 64
		$812,041 94

STATEMENT OF CREDIT CLAIMED BY THE BROOKLYN CITY COMPANY ON ACCOUNT OF RENTAL.

Due from Brooklyn Heights:		
For dividends	$300,000 00	
For interest on funded debt	150,283 96	
For taxes on property used in operation	3,626 85	
		$453,910 81
Deduct amount in dispute subject to adjustment		*305 89
Net amount due as claimed		$453,604 92

ANALYSIS AND COMPARISON OF RENTAL ACCOUNT CLAIMED TO HAVE BEEN PAID.

	Brooklyn City.	Brooklyn Heights.
For dividends	$833,262 01	$833,262 01
For interest	121,733 30	120,999 62
For taxes	140,960 54	141,591 79
Assessments	1,376 64	.....
Totals as reported	$1,097,332 49	$1,095,853 42

	Brooklyn City.	Brooklyn Heights.
Add amount paid Brooklyn City and charged to maintenance		$763 59
Add amount received and credited taxes	$18 20	.....
	$1,097,350 69	$1,096,617 01
Deduct amount charged against interest	733 68	.....
	$1,096,617 01	$1,096,617 01

TOTAL RENTAL ACCOUNT CLAIMED TO HAVE BEEN PAID AND TO BE DUE.

	Brooklyn City.	Brooklyn Heights.
Paid dividends	$833,262 01	$833,262 01
Due dividends	300,000 00	300,000 00
Paid taxes	140,960 54	141,591 79
Due taxes	3,626 85	4,091 18
Paid interest	121,733 30	120,999 62
Due interest	150,283 96	151,017 67
Paid assessments	1,376 64	.....
	$1,551,243 30	$1,550,962 27
Net difference in dispute		281 03
	$1,551,243 30	$1,551,243 30

*Difference between $441.86, for which Brooklyn City had taken credit in other accounts and $747.75 subject to adjustment.

TAXES ACTUALLY PAID.

By Brooklyn City on own account	$90,365 24	
*By Brooklyn Heights to Brooklyn City	140,960 54	
By Brooklyn Heights for Brooklyn City	$19,164 05	
By Brooklyn City for Brooklyn Heights	3,626 85	
		$254,116 68
By Brooklyn Heights on own account		23,734 83
Total		$277,851 51

On what account paid.

Property used in operation of road	$214,166 66
Earnings and capital stock	60,769 16
Other than above	2,915 69
	$277,851 51

ACCRUED TAXES REPORTED BY BROOKLYN HEIGHTS.

On property used in operation of road	$82,586 41
Earnings and capital stock	19,500 00
Other than above	17,958 90
	$120,045 31

BROOKLYN HEIGHTS DEFAULT, JUNE 30, 1894.

The following comparison shows the difference between the amount the Brooklyn City reported to have paid on account of the Brooklyn Heights, and the amount the latter charged itself with owing the Brooklyn City:

	Claimed by Brooklyn City.	Admitted by Brooklyn Heights.
Dividends	$300,000 00	$300,000 00
Interest bonds	150,283 96	151,017 67
Taxes on property used in operation	3,626 85	4,091 18
Total	$453,910 81	$455,108 85
Deduct amounts subject to adjustment	†305 89	*1,503 93
	$453,604 92	$453,604 92

* Amount reported as received by Brooklyn City from Brooklyn Heights. The amount reported by the Brooklyn Heights as having been paid was $141,591.79, or $631.25 more than the amount reported by the Brooklyn City as having been received, and the amount reported due from the Brooklyn Heights to the Brooklyn City was $464.33 in excess of the amount claimed, making the total discrepancy to be adjusted $1,095.58. This item is involved in the final adjustment as between the two companies in balancing their accounts, with the assessment charge of $1,376.64—part of the Brooklyn City rental account credited to real estate—and the other items of $747.75, $763.59, $18.20 and $733.68, heretofore alluded to in the income statements.

*Made up of items, $747.75 and $756.18. †Explained above.

COMPARISON OF INTEREST ACCOUNTS.

Brooklyn City.

Reported received from Brooklyn Heights	$121,733 30
Reported due from Brooklyn Heights	150,283 96
	$272,017 26

Brooklyn Heights.

Reported paid Brooklyn City	$120,999 62
Reported due Brooklyn City	151,017 67
	$272,017 29

BROOKLYN HEIGHTS' MONTHLY PASSENGER RECEIPTS.

1893.		
July	$429,818 39	
August	390,591 59	
September	378,382 36	
		$1,198,792 34
October	$358,495 73	
November	322,780 58	
December	322,433 13	
		$1,003,709 44
1894.		
January	$302,122 58	
February	272,595 56	
March	328,089 30	
		902,807 44
April	$337,622 94	
May	404,789 35	
June	436,319 36	
		1,178,731 65
		$4,284,040 87
From Advertising, etc		19,076 58
Total earnings from operation		$4,303,117 45

RECEIPTS FOR QUARTER ENDING SEPTEMBER 30, 1894.

July	$437,577 03	
August	404,273 96	
September	405,993 95	
		$1,247,844 94
From advertising, etc		4,444 54
		$1,252,289 48

COMPARISON PASSENGER RECEIPTS.

Quarter ending September 30, 1894	$1,247,844 94
Quarter ending September 30, 1893	1,198,792 34
Increase, 1894	$49,052 60

A careful examination of the manner in which the receipts of the road are collected, taken from the time the fare is received by the conductor, its deposit in the receiving depot, its receipt in the office of the company, and its final deposit in the bank, each day's receipts from such source being deposited in their entirety, and of the bank books showing the daily deposits, proves conclusively that the actual receipts are as stated.

Operating expenses.

The net total on this account, as reported by the company, is $2,673,391.73, and I have no hesitation in saying, as the result of the examination, that no item is charged against this account which does not belong there. In detail, the items that have been made the subject of criticism are, viz.:

"Repairs of roadbed and track, $141,570.53." The examination of this account shows that none of the cost for changing the road from horses to electricity was charged to the account, but that it was all for repairs of roadbed and track. The labor and material used in the repaving of the streets amounted in round numbers to $70,000, and for the repairs of the track, $71,570.53. The repairs to the pavement were caused by the settling of the paving done in the previous year, and because of the strict requirements of the Department of City Works, which ordered most of the repaving. The amount thus charged to repairs of track and special work, $71,570.53, is not excessive. The statement that no repairs would be required upon the roadbed and track of a properly constructed electric railroad in five years, is not in accordance with the facts. With the very best construction, constant renewals of special work, repairs of joints and repairs of paving are necessary.

"Renewals of horses, $11,160." This is the amount paid the Brooklyn City Company for the horses that died during the year, in accordance with the terms of the agreement elsewhere explained. When the horse account is finally closed out, the Brooklyn Heights Company expects to realize enough from the total sales to reimburse itself for the amount paid on account of dead horses and all other expenses on this account.

"Trucking credit, $139,311.39." The Brooklyn City Railroad Company before its lease to the Brooklyn Heights Railroad Company did its own trucking, and, therefore, turned over to the Brooklyn Heights Railroad Company a large plant for this purpose. The latter company continued the operation of this plant, organizing it as a separate department, with which it opened a ledger account. To this account was charged labor of employes, feed, repairs of trucks and other expenses, all properly chargeable to the department. The department was credited in the ledger at a uniform rate *per diem* for the use of the trucks or wagons of the department, and a corresponding charge was made to the operating account for which the material was hauled. The

construction account was also charged with the use of the trucks in the same manner and upon the same basis. The charge made *per diem* for the use of trucks was fixed so that the account would yield no profit; hence, after charging the account with the proper expense and crediting the use of the trucks, the account balanced. There would, therefore, have been no necessity for the deduction of the amount, viz.: $139,311.39, had it not been that the statement of expense, Table D, called for an enumeration which, in the judgment of the accountant, obliged him to again enumerate the expenses of the trucking department. For example, the wages of the men employed were put in the proper wage column, the horseshoeing, repairs to harness, stable equipment, and other expenses were also put in their proper account. The expense had already been charged to operation, and charged to construction in proper proportions in the *per diem* charges; if it had not also been again fully charged in the wage, provender and other appropriate accounts, there would have been no occasion for the credit to operation, and consequently no criticism. There is no question that the use of a truck in hauling any supply, or in the use of any operation account of the company, whether the cost includes the wages of the employés or other expense, should be charged against the account, for which the service was rendered, and the enumeration in Table D should not have been construed as calling for the wages in this department. As it was put in, however, the report as rendered shows the correct cost of operation after the deduction is made.

All the remaining items of operating expenses were carefully verified by comparison with vouchers and investigation as to the character of charges, and I have no criticism to make regarding them.

BROOKLYN HEIGHTS' GENERAL BALANCE SHEET, JUNE 30, 1894.

Assets.

Cost of road	$447,685 71	
Cost of equipment	58,894 41	
		$506,580 12
Current assets as follows, viz.:		
Cash on hand		13,641 92
Open accounts:		
Due from Brooklyn, Queens County and Suburban Railroad	$63,526 26	
Brooklyn City special construction	892,930 27	
Miscellaneous open accounts	44,989 73	
		1,001,446 26
Supplies on hand as per inventory		214,525 62
Total assets		$1,736,193 92

Liabilities.

Capital stock	$200,000 00	
Funded debt	250,000 00	
		$450,000 00
Interest on funded debt, due and accrued		4,420 00
Bills payable:		
Loans from banks and trust companies	$500,000 00	
Mortgage on power house	14,000 00	
Mortgage 77 Furman street	5,000 00	
		$519,000 00
Open accounts:		
Brooklyn City rental default*	$112,761 32	
Bills on hand	147,425 72	
Sundry accounts	800 50	
Interest on bonds, Brooklyn City, accrued,	10,583 30	
Trustees' guarantee fund*	250,000 00	
		521,570 84
Taxes accrued, not payable		122,359 94
Rents accrued, not payable		3,322 36
Profit and loss surplus		115,520 78
Total liabilities		$1,736,193 92

BROOKLYN HEIGHTS' GENERAL BALANCE SHEET, SEPTEMBER 30, 1894.

Assets.

Cost of road and equipment	$504,113 12	
Supplies on hand	164,980 77	
Accrued interest	45,337 50	
Due by agents of this company on account of traffic	8,333 80	
Due by others (not agents of this company) on account of traffic	6,858 27	
Due by companies and individuals (on open accounts other than traffic)	19,000 63	
Cash on hand	338,096 84	
Insurance (paid, not due)	17,992 89	
B. C. R. R. construction account	1,875,334 85	
Rents due and accrued	3,736 99	
		$2,983,785 66

*The Brooklyn City rental default, as admitted by the Brooklyn Heights Company, was $455,108.85. Part of this was paid with the interest received from the guarantee fund, part of it is represented by the $250,000 liability, the liability being transferred from "Brooklyn City rental" to "Trustees' guarantee fund," and the balance is the item of $112,761.32.

Liabilities.

Capital stock	$200,000 00	
Funded debt	250,000 00	
Loans and bills payable	1,577,340 36	
Interest on funded and floating debt, due and accrued	11,443 63	
Due for wages and supplies	132,632 25	
Due companies and individuals (on open accounts)	14,680 59	
Taxes accrued	199,933 60	
Rentals account B. C. R. R. Co	86,958 33	
Due for supplies and contracts, construction	324,776 08	
Profit and loss surplus	186,020 82	
		$2,983,785 66

BROOKLYN HEIGHTS' CONSTRUCTION AND EQUIPMENT ON ACCOUNT OF THE BROOKLYN CITY RAILROAD.

When the money of the Brooklyn City Railroad Company available for construction had all been expended, it became necessary, under the terms of the agreement, for the Brooklyn Heights Company to go on and complete the construction and make desired extensions. For the purpose of obtaining money to do this work, the Brooklyn Heights Company entered into an arrangement with the New York Guarantee and Indemnity Company, whereby it was agreed that necessary funds to the extent of $3,000,000 should be loaned them for this purpose, upon notes made by the Brooklyn Heights Company and indorsed by the Long Island Traction Company. Under the terms of the lease the money so expended was to become in effect a lien upon the property of the Brooklyn City to this extent: The Brooklyn City Company agreeing in the lease to reimburse the Brooklyn Heights Company either at the expiration of the lease or at such time and in such manner as might be agreed upon by the contracting parties for all moneys expended in extending or bettering the properties of the Brooklyn City Company. A committee representing the persons from whom this money was to be obtained was appointed, consisting of David G. Leggett, G. G. Haven, Jr., and George W. Young, all well known in financial circles, and before the agreement was made to loan the money upon the above conditions, the construction charges of the Brooklyn Heights Company against the Brooklyn City Company were, at the request of the Brooklyn Heights Company, examined by an expert selected by the Guarantee and Indemnity Company, and the terms of the lease construed by the attorneys of such company. Under the arrangement, all charges of this kind to construction are first passed upon by the directors of the Brooklyn Heights Company. They are then referred to the directors of the Brooklyn City Company, and if accepted by that company as a proper charge against construction, they pass the scrutiny of the committee acting in behalf of the noteholders before payment is made. It will be seen, therefore, that the three interests involved in the making of these charges are, first, the Brooklyn Heights Company, anxious to charge to construction all expenditures

that properly belong there; secondly, the directors of the Brooklyn City Company desirous of protecting the interests of their corporation by preventing any improper charge to construction; and, thirdly, the committee representing the noteholders, who must see that the investment is properly secured.

Such of these notes as have been issued have been placed upon the market at a discount of from fifteen to twenty per cent. The charge against the Brooklyn City Company, however, has been the actual cost; in other words, the face of the voucher, and the discount will have to be met by the Brooklyn Heights Company and cannot become a charge to the construction account of either road, under the arrangement. It would appear from this that the interests of the Brooklyn City Company are amply protected. Up to June 30, 1894, the Brooklyn Heights Company had expended on that account $892,930 27. It has been agreed that the proceeds of the sale of old material, or such as has become useless to the company through the operation of the conversion, or of the sale of real estate no longer necessary to the company, shall either be turned over to the directors of the Brooklyn City Company to be expended by them in making extensions, shall be expended by the directors of the Brooklyn Heights Company in extensions, or shall be applied to the reduction of the construction account created in the manner above described. All moneys received up to the date of the last annual report from the sale of horses or material, have been credited to the construction and equipment accounts of the Brooklyn City railroad, either directly or through the contingent construction account.

The following is the contingent construction account in detail, showing amount expended and credits to the account since January 1, 1894, including $15,720.21 expended prior to that date:

EXPENDITURES.		
For cars	$616,540 71	
Electric and track construction	275,290 59	
Depot construction and alterations	167,578 29	
Power station construction	660,836 93	
Expended prior to January 1, 1894	15,720 21	
		$1,735,966 73
CREDITS.		
Sale of old material	$12,347 11	
Sale of horses	139,515 00	
Credit on account of dead horses	4,440 00	
Cash advances	520,121 28	
		676,423 39
Total debit		$1,059,543 34
Deduct unpaid bills		166,613 07
Net amount Brooklyn City construction account as per Brooklyn Heights report		$892,930 27

On September thirtieth the net amount of this account was $1,875,334.85.

GUARANTEE FUND.

The following is a statement of the guarantee fund deposited by the Brooklyn Heights Company as security for the faithful performance of its contract set forth in the lease with the Brooklyn City Company. It consists of bonds of the Brooklyn City road of the par value of $1,860,000, purchased at $107.50, market value, $1,999,500; $2,000,000 first mortgage bonds of the Brooklyn, Queens County and Suburban railroad, and $500 in cash, aggregating $4,000,000:

PLACE OF DEPOSIT.	Par value.	Market value.
Kings County Trust Co.*	$116,000 00	$124,700 00
Franklin Trust Co.*	139,500 00	149,962 50
Long Island Trust Co.*	139,500 00	149,962 50
Hamilton Trust Co.*	139,500 00	149,962 50
Brooklyn Bank*	93,000 00	99,975 00
Long Island Bank*	93,000 00	99,975 00
People's Trust Co.*	581,500 00	625,112 50
N. Y. Guaranty and Indemnity Co.*	558,000 00	599,850 00
N. Y. Guaranty and Indemnity Co., B. Q. Co. & S. bonds	2,000,000 00	2,000,000 00
N. Y. Guaranty and Indemnity Co., cash	500 00	500 00
Total	$3,860,500 00	$4,000,000 00

The withdrawal of $250,000 from this fund by the Brooklyn Heights Company consisted of $233,000 of bonds from the People's Trust Company. The bonds of the Brooklyn City road have recently been sold at a premium of $15.25, and the bonds of the Brooklyn, Queens County and Suburban are now worth $102 at market value; therefore, notwithstanding the withdrawal of $233,000 par of Brooklyn City bonds the deposit is worth:

	Par value.	Market value.
Brooklyn City Bonds	$1,630,000 00	$1,862,275 00
Brooklyn, Queens Co & Suburban bds.	2,000,000 00	2,040,000 00
Cash	500 00	500 00
Total	$3,630,500 00	$3,902,775 00

FIXED INTEREST AND DIVIDEND CHARGES OF BROOKLYN HEIGHTS RAILROAD COMPANY ON ACCOUNT OF BROOKLYN CITY RENTAL.

$12,000,000 Capital stock at ten per cent. per annum	$1,200,000
$6,000,000 Brooklyn City railroad consolidated mortgage bonds, at five per cent. per annum	300,000

*Brooklyn City consolidated five per cent. bonds.

$200,000 Crosstown railroad first mortgage bonds, at five per cent. per annum	$10,000
$200,000 Calvary Cemetery railroad bonds, at six per cent. per annum	12,000
$200,000 New W. and I. railroad mortgage bonds, at seven per cent. per annum	14,000
$125,000 Greenpoint and L. Street railroad mortgage bonds, at six per cent. per annum	7,500
$200,000 Grand Street and N. railroad mortgage bonds, at five per cent. per annum	10,000
	$1,553,500

BROOKLYN CITY RAILROAD COMPANY.

Stock and bonds.

Capital stock, guaranteed at ten per cent. per annum	$12,000,000
Consolidated first mortgage five per cent. bonds, Brooklyn City railroad, due 1941	6,000,000
Calvary Cemetery railroad first mortgage six per cent. bonds, due 1907	200,000
Crosstown railroad first mortgage five per cent. bonds, due 1908	200,000
New Williamsburgh and Flatbush railroad first mortgage seven per cent. bonds, due 1897	200,000
Greenpoint and Lorimer Street railroad first mortgage six per cent. bonds, due 1910	125,000
Grand street and Newtown railroad first mortgage five per cent. bonds, due 1906	200,000
	$8,925,000

Cost of road and equipment.

The only portion of Mr. Thompson's criticism not already considered is that relating to the construction and equipment account of the Brooklyn City railroad. The force of this criticism depends upon the determination of the question, what proportion of the expense of changing a road from horse power to electric power is a charge to betterment. If horse power had been continued, the cost of replacing worn-out tracks and equipment should have been charged to operating expenses, as the maintenance of the electric road must now be charged. But the tracks and equipment of the horse roads that have changed to electric power were not worn out. A new condition of things came into existence. Improved service was demanded. Increased revenues were certain to result. Stockholders subscribed their money to make a radical and complete change in the system of operation and expected that their roads would earn enough to take care of the new stock and bond issues, the proceeds of which were all to be expended for construction and equipment, as well as of the stocks and bonds then outstanding representing the cost of the road up to the time of the change. In many cases it has actually cost more to take up the old construction and put down the new

than if there had been no old road. The conversion from one method to the other was not the maintenance of the horse road in any respect. The latter was to pass out of existence. Its place was to be taken by new rails, new equipment, a new method of transit. The earnings of the improved method have in all cases justified the charge of the entire cost of conversion as a betterment to the property. Wherever the horse car tracks were found to be suitable for use under the new system, they were used, the cost of wiring, etc., being charged to construction as a betterment, and properly so. Wherever the old tracks were not suitable they were replaced by construction much better in every way than that required for horse cars, and the whole cost charged to construction less the amount received from the sale of useless material. It might be said that as the horse car tracks would have to be kept up by charging to operating expenses, a portion of the new construction should be charged to operating expenses. The reply is, that the track as it was would have answered for a long time to come for horse traction; that new conditions required the substitution of the new method, forcing practically the throwing away of the old construction.

Whenever an application has been made to your honorable Board for permission to increase capital stock in order to change motive power, the basis of such increase has been the total estimated cost of the conversion without any deduction on account of the value of the property the new construction was to replace; consequently, while the question has not been specially considered by the Board, the effect of its action in this respect and in the acceptance of the annual reports of the companies that have made such charges has been to recognize the propriety of the charges.

It is not the Brooklyn lines alone that are interested in the settlement of this question, but every surface railroad system in the State that has changed its motive power from horse to electricity. From an investigation into this subject since the completion of this examination, and an examination of the construction accounts of several of the large electric systems of the State, I find that the custom has been to charge construction and equipment with the entire cost of conversion, crediting these accounts with the moneys received from the sale of useless material. I believe this is the correct principle, and that the Brooklyn City Company acted properly in charging the total cost of its conversion to construction and equipment, and I find that all moneys received from the sale of old material have been properly credited.

Interest and discount charged to construction.

Against the construction account of the Brooklyn City Company appears a charge of $152,345.78, interest and discount. This amount includes an item of $90,000, part payment of a dividend on stock, and the entire charge is criticised by Mr. Thompson. In the book of instructions, entitled "Explanations for Guidance of Railroad Companies in Making Reports to Board of Railroad Commissioners," prepared by Mr. Thompson, and issued when he was the accountant of this Board, appears a direction as follows:

"All interest and discount paid in obtaining funds for construction should be charged under this heading and not pro-rated through the various other items."

In the blank, also prepared by Mr. Thompson, for making annual reports, this line appears, under the heading "Cost of road," viz: "Interest and discount charged to construction." This was a notification to the companies reporting to this department that there could be such a thing as interest charged to construction upon money borrowed for the purpose of bettering the road, and it has been the custom of this Board to accept such reasonable charges as have been made by other roads on this account without question. In the case of the Brooklyn City Company, its directors were borrowing money for construction during the whole period of the conversion of the road from horses to electricity, pending the issue of stocks and bonds, the proceeds of which were finally to pay for the conversion. I think, under the circumstances, the item of $62,345.78 was, therefore, a proper charge. The item of $90,000 was credited to income in the annual report for the year ending June 30, 1893. It was also debited to income as a payment of dividend, and the change in the disposition of the account was made in June, 1893, by the board of directors of the Brooklyn City Company, after an examination of the accounts of the company by the executive committee, and a full report to the board of directors recommending a number of changes which were at that time made, and which appeared in the totals of the annual report to June 30, 1893. The explanation of the $90,000 charge given by the company is that at the time the money was obtained, on account of which the interest charge was made, the company was in need of funds to continue its work of conversion. The country was passing through a season of financial depression. The company could not borrow money except on a demand loan; therefore stock was issued which became entitled to dividends, although the construction on account of which the money was expended was earning nothing. If the company could have borrowed the money it would have done so, and would have paid a comparatively small rate of interest, and the directors believed they were justified in charging to construction the difference between the amount of interest they would have paid on a loan and the dividend paid on the stock. The question raised by this criticism seems to be one of financial policy rather than of bookkeeping, and I submit it to your Board without comment.

The following is a statement of the Brooklyn City construction account:

Cost of road and equipment to June 30, 1894.

Roadbed, superstructure and electrical appliances.....	$7,988,641 66
Buildings and fixtures (all real estate).....	5,969,629 75
Interest and discount charged to construction.....	152,345 78
Equipment.....	4,729,316 94
	$18,839,934 13

Expended during the year ending June 30, 1894.

Electrical appliances pertaining to road and superstructure	$1,735,030 75
Buildings and fixtures	1,395,581 26
Interest and discount charged to construction	34,726 11
Equipment	1,320,056 32
	$4,485,394 44

EXPENDITURES ON ACCOUNT OF CONSTRUCTION AND EQUIPMENT FROM SEPTEMBER 30, 1889, TO JUNE 30, 1894.

YEAR.	* Cost of road.	Equipment.	Total.
1890	$289,426 49	$160,309 40	$449,735 89
1891	3,928,899 83	724,469 62	4,653,369 45
1892	848,850 86	232,076 25	1,080,927 11
1893	2,912,372 18	962,316 70	3,874,688 88
1894	3,165,338 12	1,327,997 32	4,493,335 44
Totals	$11,144,887 48	$3,407,169 29	$14,552,056 77
Deduct credits of 1893–1894	.....	123,633 50	123,633 50
	$11,144,887 48	$3,283,535 79	$14,428,423 27
Expended prior to Sept. 30, 1889	2,965,729 71	1,445,781 15	4,411,510 86
Grand totals	$14,110,617 19	$4,729,316 94	$18,839,934 13

* Including real estate.

The construction account of 1891 includes $4,102,734.64, paid for acquired lines, and the account for 1892 includes $71,087.94 expended for the same purpose. The aggregate of these items has been distributed and charged to cost of roadbed, real estate and equipment in proper proportion.

COST OF CONVERSION TO JUNE 30, 1894.

The following shows the aggregate cost of the Brooklyn system as a horse car line and the cost of the conversion from horse to electricity up to June 30, 1894:

Total cost of construction to June 30, 1890	$4,861,246 75	
Cost of acquired horse car lines	4,173,822 58	
		$9,035,069 33
Cost, excluding cost of acquired lines since June 30, 1890		9,804,864 80
Total		$18,839,934 13

"All interest and discount paid in obtain[illegible] al stock of the should be charged under this heading and [illegible] ,000 was made in various other items." [illegible] count of which the

In the blank, also prepared by Mr. [illegible] truction progressed it reports, this line appears, under the he[illegible] ch it had been assumed [illegible] a heavier rail. An addi- terest and discount charged to const[illegible] y, and it may fairly be said the companies reporting to this [illegible] d was fully twenty per cent. thing as interest charged to cor[illegible] addition to the work contem- purpose of bettering the road [illegible] xtensions have been built which to accept such reasonable [illegible] ne total construction account up to this account without ques[illegible] pany, its directors wer[illegible] g the money spent by the Brooklyn whole period of the [illegible] count of the Brooklyn City construction, pending the issue [illegible] At least a million dollars more will have to be to pay for the co[illegible] conversion and extensions are completed. The $62,345.78 w[illegible] the extensions and improvements, not included in the credited to i[illegible] amounted to over $2,500,000 on June 30, 1894. 1893. It [illegible] construction was done during the years 1893 and 1894, change [illegible] lines operation and construction were both going on at board [illegible] A great deal of the work had to be done at night, and it of t[illegible] on that account. The report of Mr. Baxter, your re[illegible] inspector, which is appended to and made part of this re- port, shows, however, that while the conversion has necessarily been expensive, owing to the causes above enumerated and to the further fact that improvements were constantly being made in electrical appliances, it has not been extravagant, and what has been done has been so well done that the company will reap the benefits of its permanency. Mr. Baxter's report will be found to more fully describe the physical condition of the roadbed and the character of the betterments.

Income Account.

The income account of the Brooklyn City Company is fully treated in connection with the analysis of the income account of the Brooklyn Heights Company.

Operating Expenses.

The table of operating expenses shows a net deficit of $20,225.63. This is represented by the payment of obligations incurred prior to June 6, 1893, from which is deducted that part of the receipts due the Brooklyn City Company on account of service rendered prior to June 6, 1893, and not actually received until after June 30, 1893.

There is nothing further in connection with the Brooklyn City report which seems to require explanation.

Submitted herewith are the lease of the Brooklyn City Railroad to the Brooklyn Heights Railroad Company, bearing date of February 14, 1893, the charter of the Long Island Traction Company, and the report of the inspector and engineer.

There is nothing to be said regarding the lease except that its conditions and requirements appear to have been fully observed by both corporations, and so far as this investigation goes, it is demonstrated that the

Brooklyn City Company has received every possible protection, not only as to the preservation of its property, but in the enforcement of the rental payments by the Brooklyn Heights Company. The quarterly report of the Brooklyn Heights Company for the quarter ending September 30, 1894, shows that all moneys due the Brooklyn City Company on June 30, 1894, have been paid, and that full provision has been made for future rental payments. At the time the lease was made the outstanding capital stock of the Brooklyn City Railroad Company was $9,000,000. The total number of votes cast by the stockholers on the question of the lease was 807,797; in favor of the lease, 806,632, and against, 1,165.

BROOKLYN CITY RAILROAD COMPANY.

Officers and Directors, June 30, 1894.

President, *pro tem*	Edward Merritt	Brooklyn, N. Y.
Secretary and Treasurer	Thomas P. Swin	Brooklyn, N. Y.
Edward Merritt		Brooklyn, N. Y.
S. L. Husted, Jr		Brooklyn, N. Y.
David G. Legget		Brooklyn, N. Y.
Edward D. White		Brooklyn, N. Y.
Samuel W. Powne		Brooklyn, N. Y.
George W. Bergen		Brooklyn, N. Y.
F. A. Van Iderstine		Brooklyn, N. Y.
Alonzo Slote		Brooklyn, N. Y.
Charles S. Osborne		Brooklyn, N. Y.
R. L. Edwards		Brooklyn, N. Y.
W. Cary Sanger		Brooklyn, N. Y.
John C. Barron		New York City.

BROOKLYN HEIGHTS RAILROAD COMPANY.

Officers and Directors, June 30, 1894.

President	Daniel F. Lewis	168 Montague St., Brooklyn, N. Y.
General Manager	W. A. H. Bogardus	168 Montague St., Brooklyn, N. Y.
Secretary and Treasurer	Cyrus P. Smith	168 Montague St., Brooklyn, N. Y.
Superintendents	J. C. Cameron, W. N. Morrison,	168 Montague St., Brooklyn, N. Y.
Daniel F. Lewis		Brooklyn, N. Y.
E. W. Bliss		Brooklyn, N. Y.
Felix Campbell		Brooklyn, N. Y.
Crowell Hadden		Brooklyn, N. Y.
Silas B. Dutcher		Brooklyn, N. Y.
Seth L. Keeney		Brooklyn, N. Y.
David H. Valentine		Brooklyn, N. Y.
Henry D. Polhemus		Brooklyn, N. Y.
W. S. Sloan		New York City.
A. Abraham		Brooklyn, N. Y.
Frank Bailey		Brooklyn, N. Y.

SUMMARY.

In summarizing the results of this examination, I most respectfully report:

First. That the Long Island Traction Company is not a corporation required to make reports to your Board. It is true that the collateral trust notes indorsed by the Long Island Traction Company, on account of the Brooklyn City construction, are a liability ahead of the stock of the Long Island Traction Company, and they should be. Whatever value in connection with its ownership of the stock of the Brooklyn Heights Company the Long Island Traction Company's stock may have, will be based upon the earnings of the Brooklyn City Company, and the greater the improvement in the Brooklyn City property the larger will be its earning power and the more speedily will the Long Island Traction Company be enabled to realize upon its investment in connection with this property.

Second. The accounts of the Brooklyn Heights Company are correct and properly set forth the transactions of that company. The terms of the agreement with the Brooklyn City Company have been fully and faithfully complied with, and at the time of this examination all amounts due the Brooklyn City Company had been paid.

Third. The money obtained by the Brooklyn City Company from the sale of its stocks and bonds, for the purpose of changing the motive power of its road from horses to electricity, has been properly expended and charged to the proper accounts. These accounts have received full credit for the sale of all useless material, and the relations of the Brooklyn City Company with the lessee company have been controlled in all respects by the terms of the lease. The small amounts of difference between the income accounts of the Brooklyn City and Brooklyn Heights Companies, growing out of the confusion incident to the changes in operation and the different systems of bookkeeping, the amount of which is $281.03, have all been fully explained.

Fourth. Relative to the inadequacy of the present blank upon which the reports of the street surface railroads are required to be made to your honorable Board, I would respectfully recommend a conference of the accountants of the street surface systems of the State, under the auspices of this Board, to the end that such changes be made in the form as will meet present requirements. Also, that at the same time an effort be made to secure greater uniformity in the methods of accounting on the part of these companies.

All of which is respectfully submitted.

CHARLES R. DEFREEST,
Secretary.

ACTION OF THE BOARD.

After the reading and consideration of the foregoing report, the following resolution was unanimously adopted by the Board:

Resolved, That the report of the Secretary of this Board, in relation to the Brooklyn City and Brooklyn Heights Railroad Companies and the Long Island Traction Company, be and the same is hereby accepted, and its conclusions and findings concerning the accounts of these companies approved.

APPENDIX.

Report of F. K. Baxter, Inspector.

HON. CHARLES R. DEFREEST, *Secretary State Board of Railroad Commissioners, Albany, N. Y.:*

DEAR SIR:—Agreeable to your request, a careful examination of the physical condition of the Brooklyn City Railroad Company, now operated by the Brooklyn Heights Company, has been made, and the following is most respectfully submitted:

The power stations were first visited. There are three in active operation, as follows: The eastern, which is the largest, and is located at the corner of Kent and Division avenues; the southern, at the foot of Fifty-second street, and the Ridgewood station, on Wykoff avenue, near Myrtle avenue. An unused station, at the corner of Second avenue and Fifty-second street, is now for sale. Your inspector, in the inspection of these stations, found everything modern, material and workmanship of the best, and the machinery all in perfect running order, stable and permanent. The method of handling coal is very economical. The appliances all appeared of modern construction and well cared for. The structures were also found well and durably made. The E. P. Allis Company, of Milwaukee, Wis., had furnished the engines, and these were found working smoothly, and without the vibration usual in many instances. The electric generators were in extra good condition, and installed with all the latest and improved devices for the control and regulation of the machines and their current output. Protection from the effects of lightning and short circuits from any cause were noted in each instance. Great care has been taken in the foundation construction, concrete and granite being used in large quantities with Portland cement. Stability is apparent everywhere, even in minor parts. Room was noted in each station for additional power if needed in the future. The boiler batteries were found in excellent condition, and ample room for additions were noted.

It is somewhat difficult to compare the cost of power generated in power stations in different parts of the country. The variation in the size of cars, difference in size, efficiency and number of motors used for cars, difference in grades over which cars are propelled, and the different percentage of loss in the transmission of power from the power stations to the cars are some of the hardest factors to overcome and equalize. The unit of comparison which is used generally is the cost of power per

car per mile. If the ampere hour unit at the station was used, many of the difficulties would disappear, as this unit does not vary. The cost per car per mile for the last six months upon this system reached as low as one and one-tenth cents, and has not been above one and twenty-five hundreths cents. The nominal horse power of the three stations reaches close to 17,000. The maximum capacity would considerably exceed this easily.

The overhead work was carefully noted upon all the lines, and was found as desirable as could be expected. The wires were taut, of ample size, well and securely connected and carefully attended to. Guard wires were found up in all instances where there was possibility of other wires falling upon the trolley wires. The poles were found of extra material, well and securely set in the ground and all strongly maintained. The trolley wires are of hard-drawn copper, No. $^1/_0$ B. and S gauge. The span wires, supporting the trolley wires, are of galvanized iron, and are insulated from the trolley wires and from the poles. The copper "bonds" which connect the rails are bonded to supplementary wire running parallel to the rails the entire length of the line. The arrangement of the return current cables and feed system were found complete and in extra condition and very well cared for. The matter of electrolysis has been also well cared for, and the near future will no doubt see this troublesome feature entirely eliminated. Repair gangs were noted upon days of inspection and appearances indicated close attention upon every line. This system, the second largest in the world (the Boston West End Company being the largest), has some 200 miles of single track. Most of the lines have double tracks, which greatly facilitates the traffic. In addition to the main trackage there are 109 crossovers, averaging sixty feet each, making a total of 6,540 feet. A careful inspection of the tracks upon each of the lines showed excellent state of maintenance. The different kinds of rail in use are as follows: Lewis & Fowler box girder, five inches high and weighing sixty-five pounds per yard; nine-inch girder, twelve bolts per joint; centre bearing or horse-car rails; side bearing rail; steam rail, T-form, and Johnson six-inch girder rail. The surface and adjustment of tracks were noted very good, showing constant attention and care. The pavements adjacent to the tracks and between them are, as a rule, in good condition upon each of the lines. The lines extending to the suburbs were noted paved and exceptionally cared for. The new nine-inch girder rail recently laid upon Fulton street became necessary owing to increased traffic. Several of the lines will, the coming season, be laid with this heavy "section." The car repair shop upon Fifty-second street was found in permanent condition, and the outfit there is quite complete. Nearly all repairs are made there, and all cars equipped, some 1,600 in number. The change from horse power to electricity, upon the twenty-four lines, was made from May, 1891, to September, 1894.

The company owns forty-two parcels of real estate, upon which are located, with few exceptions, car houses, stables, shops, transfer stations, etc. Each of the buildings was examined and found well cared for, and of good construction, a number being of stone and brick. The area of the above parcels range from 1,875 square feet to 229,561 square feet. This class of property generally is closely watched and maintained, as its great value deserves. In round numbers, this company has 800 closed

and 800 open cars. The general condition of the cars was found very good. The motors' running parts, and cars proper, receive daily inspection, and repairs are made, whenever needed, without delay.

The dummy lines were inspected and found in good condition, as regards track, roadbed and the like. Your inspector was informed that these lines will, in the near future, be modified to electric power. Calculations show that the power stations are together capable of operating 425 miles of single track, with all the cars required, which will not be less than about 1,650 per day, without laying another brick or any other work, excepting, perhaps, the addition of four engines, eight batteries of boilers and six generators, the foundations for which are already erected and provided for. Since the erection of the eastern station, this company has furnished the Brooklyn, Queens County and Suburban Railroad Company with power. With machinery added, as above referred to, the stations will run the Brooklyn Heights system, the system of the Brooklyn, Queens County and Suburban railroad, and 173 miles of extensions, when completed, which are owned by the above-named companies. In conclusion, your inspector would say that the whole system, in its physical conditions, shows intelligent maintenance, modern construction, and proper safety on the various track surfaces.

Very respectfully,

F. K. BAXTER,

Inspector.

Dated ALBANY, N. Y., *December* 11th.

IV.

IN THE MATTER OF THE COMPLAINT OF THE NEW YORK STATE COMMISSION IN LUNACY AGAINST THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY, ALLEGING A DANGEROUS CROSSING AT BINGHAMTON.

December 11, 1894.

On November 9, 1894, the State Commission in Lunacy, through its Secretary, requested this Board to direct the New York, Lake Erie and Western Railroad Company to erect an electric gong or other warning signal to give notice of the approach of trains at a crossing in the grounds of the State Asylum at Binghamton. The company answered on November 20, stating that the locality would be examined by its engineers, and suggested that possibly an overhead crossing would afford the most desirable relief. The Commission in Lunacy answered on November 22, opposing the erection of an overhead crossing and insisting upon the location of an electric gong or signal. On November 26, a careful examination of the crossing was made by the Inspector of the Board, who reported in favor of the erection of an electric gong, and at a meeting of the Board on December 11, the Board adopted a recommendation to that effect. Nothing further having been heard from the complainants, it was assumed that the recommendations of the Board had been complied with, and the case was ordered closed on July 30, 1895.

V.

IN THE MATTER OF THE COMPLAINT OF JAMES L. YOUNG AGAINST THE PHILADELPHIA, READING AND NEW ENGLAND RAILROAD COMPANY, ALLEGING POOR CONDITION OF FENCES.

January 5, 1895.

This complaint was received on October 8, 1894. On January 5, 1895, the complainant informed the Board that the fences had been placed in first-class condition, and the case was thereupon ordered closed.

VI.

IN THE MATTER OF THE COMPLAINT OF THOMAS W. STEVENS AGAINST THE LEBANON SPRINGS RAILROAD COMPANY, ALLEGING DANGEROUS CONDITION OF THE ROADBED.

January 15, 1895.

On May 31, 1894, Thomas W. Stevens, claiming to represent certain bondholders in the Lebanon Springs Railroad Company, complained that the management was inefficient and the condition of the roadbed positively dangerous. W. V. Reynolds, Receiver, answered that the road was in the hards of the court, and that all the money received was expended in an endeavor to keep the property in safe condition for transportation; that no accidents had occurred and that the utmost care was exercised in operating the road. A copy of the answer was forwarded to Mr. Stevens on June 6, with the statement that if desired a hearing upon the matter could be had before the Board. No reply having been received from the complainant, the case was ordered closed on January 15, 1895.

VII.

IN THE MATTER OF THE COMPLAINT OF JAMES P. MALOY, AGAINST THE UNION RAILWAY COMPANY OF NEW YORK CITY, ALLEGING REFUSAL TO GIVE TRANSFER TICKETS.

January 15, 1895.

On July 30, 1894, James P. Maloy complained against the Union Railway Company of New York City, alleging a specific case in which the conductor of a car refused to issue a transfer ticket. The railroad company answered denying the complaint, and the complainant was notified that the Board would give a hearing, if desired, on September 21, at 11 A. M. There being no appearance on the part of the complainant, and subsequent failure to prosecute the complaint, the case was ordered closed on January 15, 1895. It was ascertained by the Board that the company was not required to give a transfer ticket in the case at issue. The passenger had boarded the wrong car, had paid fare and ridden some distance before the mistake was discovered.

VIII.

IN THE MATTER OF THE COMPLAINT OF B. J. CUMMINGS, AGAINST THE WESTERN NEW YORK & PENNSYLVANIA AND THE NEW YORK CENTRAL & HUDSON RIVER RAILROAD COMPANIES, IN RELATION TO CLASSIFICATION OF FREIGHT.

January 15, 1895.

This complaint was made on August 6, 1894. The answer of the New York Central & Hudson River Railroad Company, which received the freight in the first instance, represented that the complainant was in error regarding the rate and classification. The answer was forwarded to the complainant and he was notified that a hearing could be had before the Board, but failing to continue the prosecution, the case was ordered closed on January 15, 1895.

IX.

IN THE MATTER OF THE COMPLAINT OF G. E. HARMON, AGAINST THE NEW YORK CENTRAL & HUDSON RIVER RAILROAD COMPANY, IN RELATION TO THE BURNING OF FENCES ALONG THE LINE OF COMPLAINANT'S PROPERTY.

January 15, 1895.

On August 13, 1894, G. E. Harmon, of Churchville, complained that thirty rods of farm fence, with three acres of timothy meadow land, were burned over on the 19th of July, by a fire caused by sparks from locomotives. On September 19, Mr. Webb, vice-president of the company, replied that the fence had been rebuilt, and the cause of complaint having been removed, the case was ordered closed.

X.

PETER V. KETCHAM AGAINST THE LONG ISLAND RAILROAD COMPANY, ALLEGING DANGEROUS CROSSING AT FARMINGDALE.

January 15, 1895.

This complaint was filed on August 17, 1894, by Peter V. Ketcham, Justice of the Peace of Farmingdale, alleging that a crossing at that place on the Long Island railroad was rendered dangerous by the erection of houses near the track, and the high rate of speed at which trains are run through the village. He asked that the company be required to place gates at the crossing. The company replied that the view was not obstructed at this crossing, and that the company has maintained for some time past an automatic signal bell at the crossing which gives warning of the approach of trains from either direction. An investigation was made by the Inspector of the Board, who reported that the bell signal was giving satisfaction; that no accidents had ever occurred on this crossing, and that until modifications are made in the train service, or the village

increases materially in size, no further precautions are necessary. No reply was made by the complainant to the notification that he might have a hearing before the Board, and the case was thereupon ordered closed on January 15, 1895.

XI.

IN THE MATTER OF THE COMPLAINT OF C. R. ROOT AGAINST THE NEW YORK, ONTARIO & WESTERN RAILWAY COMPANY, RELATIVE TO THE STOPPING OF A TRAIN AT HIS CREAMERY FOR SHIPMENT OF MILK.

January 15, 1895.

This complaint was filed on October 9, 1894, alleging that the railroad company refused to stop a train at the Union Creamery, Sidney Centre, for shipments of milk. On October 17 the company replied that the train would be stopped at Mr. Root's creamery until further notice whenever he had ten or more cans of milk to ship. Mr. Root was not satisfied with this arrangement, but failed to indicate that he desired the Board to take any further action in the matter, and the case was thereupon ordered closed on January 15, 1895, for failure to continue prosecution.

XII.

IN THE MATTER OF THE COMPLAINT OF L. B. BROWNING AND OTHERS AGAINST THE NEW YORK, LAKE ERIE & WESTERN RAILROAD COMPANY, IN RELATION TO FENCES.

January 15, 1895.

This complaint was received October 18, 1894, and on January 15, 1895, the case was ordered closed, the cause of complaint having been removed by the rebuilding of the fences.

XIII.

IN THE MATTER OF THE COMPLAINT OF THE VILLAGE TRUSTEES AND TOWN BOARD AND HIGHWAY COMMISSIONERS OF JAMAICA, QUEENS COUNTY, AGAINST THE BROOKLYN, QUEENS COUNTY & SUBURBAN RAILROAD COMPANY, RELATIVE TO CONDITION OF TRACKS.

January 15, 1895.

On October 31, 1894, a joint complaint was made by the village trustees of the village of Jamaica, the town board of the town of Jamaica and the commissioners of highways of said town, alleging that the tracks of the Brooklyn, Queens County & Suburban electric railroad in the town of Jamaica were out of repair. On November 7, 1894, the company replied that the work of rebonding the track was begun on October 23d, and that the work of repairing the track would be completed by November 10. This reply being satisfactory to the complainants and the work having been done as promised, the case was closed on January 15, 1895.

XIV.

IN THE MATTER OF THE COMPLAINT OF C. W. BLY AGAINST THE NEW YORK CENTRAL & HUDSON RIVER RAILROAD COMPANY, IN THE MATTER OF PLANKING AT CROSSINGS.

January 22, 1895.

On October 26, 1894, Mr. Bly complained to the Board, alleging dangerous condition of the planking at highway crossings in the village of Palmyra. On January 12, 1895, a letter was received from Mr. Bly thanking the Board in behalf of the Palmyra Grange and the farmers of the vicinity for the interest taken in securing the repairing of the crossings, relative to which complaint had been made. The reply stated that the crossings were at that time in as good condition as it was possible to put them, and on January 22 the case was ordered closed.

XV.

IN THE MATTER OF THE COMPLAINT OF WILLIAM H. LEACH AGAINST THE DELAWARE AND HUDSON CANAL COMPANY, RELATIVE TO WATCHMEN ON THE TRACK.

January 22, 1895.

On January 10, 1895, complaint was received by the Board from William H. Leach, a former employe of the Delaware and Hudson Canal Company, alleging that the number of watchmen had been reduced on the line of the New York and Canada division, near Douglass, Essex County, and that the track was not now properly patrolled either day or night. The company answered, denying the charges, and asserting that no change had been made in the number of watchmen employed. An investigation by the Board sustained the answer of the company, and on January 22 the Board determined that there was no ground for the complaint, and ordered the case closed.

XVI.

IN THE MATTER OF THE COMPLAINT OF THE RESIDENTS OF THE VILLAGE OF COBLESKILL AGAINST THE DELAWARE AND HUDSON CANAL COMPANY, RELATIVE TO WHISTLING OF LOCOMOTIVES.

February 13, 1895.

This complaint was received on January 16, 1895, and on February 6th a letter was received from the company, stating that the cause of complaint would be removed. On February 12th a reply was received from the complainants to the answer of the company, stating that it was satisfactory, and that the matter complained of had been remedied, whereupon the case was ordered closed.

increases materially in size, no further precauti
reply was made by the complainant to the n
have a hearing before the Board, and the c
closed on January 15, 1895.

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PANY, RELATIVE
ATTER OF FARES,

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IN THE MATTER OF THE COMPLA
YORK, ONTARIO & WESTER
STOPPING OF A TRAIN AT

meeting in New York on
oklyn on January 29, and
atter date the complainant
all-night cars, and that a bill
ake a uniform rate of fare of five
withdraw the complaint. The case was

This complaint was
company refused to
for shipments of
train would be
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fied with th
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XVIII.

IN THE MATTER OF THE COMPLAINT OF A. H. WILLIAMS & CO., OF UTICA, AGAINST THE DELAWARE, LACKAWANNA AND WESTERN, THE NEW YORK, ONTARIO AND WESTERN, THE NEW YORK CENTRAL AND HUDSON RIVER AND THE WEST SHORE RAILROAD COMPANIES, RELATIVE TO INCREASED FREIGHT RATES.

March 6, 1895.

On December 24, 1894, complaint was received from A. H. Williams & Co., wholesale druggists of Utica, alleging that a change had been made in the classification of freight received and shipped by them, by which wholesale grocers who handle the same line of goods were given an advantage. Answers were received from all of the defendants admitting that the changes had been made, but asserting that the quantity of freight shipped by Mr. Williams did not warrant the giving of special rates, and that the order in relation to the change applied to all wholesale druggists throughout the State. After several hearings before the Board and considerable correspondence on the subject, communications were received from all of the railroad companies above mentioned, stating that an agreement had been reached whereby the special rates for wholesale grocers were made to apply to wholesale druggists. On March 6, 1895, a letter was received from complainants, informing the Board that the rates asked for had been given them by the several railroad companies in interest, and the cause for complaint having been removed, the case was thereupon ordered closed.

XIX.

IN THE MATTER OF THE COMPLAINT OF T. E. CROSS AGAINST THE WEST SHORE RAILROAD COMPANY, ALLEGING EXCESSIVE RATES ON LUMBER.

April 2, 1895.

On January 9, 1895, T. E. Cross complained to the Board that he was compelled to pay a greater freight rate on lumber shipped from New

'l than if he had shipped the same to Albany. The com-
'he regular rate to Catskill was nine cents per hundred
'ots, and to Albany ten cents, and that there was no
ent or shipment to Albany from New York over
'e rate of six cents per hundred. Several hear-
Board, at which the New York Central and
ompany also appeared at the request of the
to substantiate his charge that a six-cent
any Albany shipper either by the West
..ral, the case was, on April 2, ordered dis-

XX.

IN THE MATTER OF THE COMPLAINT OF CHARLES FRANCIS BATES AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, HARLEM DIVISION, RELATIVE TO LIMITATION OF PASSENGER TICKET.

April 10, 1895.

Complaint was received on April 8 from Mr. Bates stating that he purchased a ticket between New York city and Bronxville, which was stamped on the back with the date March 30, on which date, the ticket said, the passage must be begun. The purchaser did not have occasion to travel on the 30th of March, and when he offered the ticket on a subsequent date to a conductor, it was refused. At the meeting of the Board on March 10, the Secretary was directed to write to the complainant that the courts had already disposed of this question in favor of the railroad company, deciding in 54, N. Y. 512, that a railroad company has the right to provide and insist that its passenger tickets shall be used on the date when issued.

XXI.

IN THE MATTER OF THE COMPLAINT OF R. W. SHERMAN AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, RELATIVE TO SHIPMENT OF CANDY.

April 11, 1895.

R. W. Sherman, of Glens Falls, complained to the Board on March 18, 1895, that a shipment of candy had been delayed on the New York Central and Hudson River Railroad until the goods had been spoiled. The letter was forwarded to the company and a reply received stating that Mr. Sherman would be reimbursed for any loss he had sustained. On April 11, Mr. Sherman communicated to the Board that the company had settled his claim, and the case was thereupon ordered closed.

XXII.

IN THE MATTER OF THE COMPLAINT OF G. W. HOYT AND A. L. DAVENPORT AGAINST THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY, RELATIVE TO REFUSAL TO CHECK PACKAGES.

April 16, 1895.

On March 30, 1895, complaint was received from G. W. Hoyt and A. L. Davenport against the practice of the New York, New Haven and Hartford Railroad Company refusing to check packages of merchandise and compelling patrons to ship by express. The company answered on April 10, giving good and sufficient reasons for the practice complained of, and the complainants were notified to attend a hearing before the Board at the office of Commissioner Chapin, 192 Broadway, New York city, on April 16. On that date the railroad company was represented by its traffic manager and general baggage agent, but the complainants failed to appear. It seems in this case, that the practice of the company regarding which the complaint was made, was designed for the accommodation of patrons of the road who desired to send packages of merchandise which are not properly baggage and which could not be checked as such. To accommodate the demand and to save customers the necessity of sending such packages by freight trains or by express, as many trains have no express accommodations or facilities, the railroad company, on February 1, 1894, established and still maintains what it calls a suburban parcel delivery service. No passenger is charged for the transportation of himself or his ordinary baggage more than the legally prescribed rate of fare, but he is afforded opportunity to ship packages of merchandise purchased in the city of New York to suburban stations and have the same delivered whether he rides or not, by the payment of a small express fee. The Board found that the company was not violating the law in any respect, and dismissed the complaint.

XXIII.

IN THE MATTER OF THE COMPLAINT OF ARTHUR S. CORE, OF WHITE PLAINS, ALLEGING DISCRIMINATION IN FREIGHT RATES.

May 4, 1895.

On April 29, 1895, complaint was received from Arthur S. Core, of White Plains, alleging excessive freight charges upon fertilizer shipped from his manufactory in Connecticut. The Board informed Mr. Core, that so far as commerce between the States was concerned, any complaint he might have regarding excessive freight rates should be made to the Interstate Commerce Commission; that if there was any specific complaints arising in this State, the Board would consider them. No reply having been received from Mr. Core, the case was, on May 4, ordered closed.

XXIV.

IN THE MATTER OF THE COMPLAINT OF J. H. ROBINSON AND A. T. HEPBURN AGAINST THE CENTRAL VERMONT RAILROAD COMPANY, RELATIVE TO EXCESSIVE FREIGHT RATES ON COAL.

May 7, 1895.

On April 11, 1895, complaint was received from J. H. Robinson and A. T. Hepburn, alleging discrimination by the Central Vermont Railroad Company, in rates on bituminous coal over the rates on anthracite coal, citing specific cases of the alleged overcharge. The company replied that the overcharge was an error and that the matter would be adjusted. On May 7th, a letter was received from the complainants, stating that the company had settled the excessive charge and fixed a uniform rate for the future.

XXV.

IN THE MATTER OF THE COMPLAINT OF ANDREW J. METZ AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER AND THE LEHIGH VALLEY RAILROAD COMPANIES, RELATIVE TO FAILURE TO RING BELL AND BLOW WHISTLE AT A CROSSING.

May 14, 1895.

This complaint was received January 25, 1895. In each case the railroad company replied that the rules of the company were explicit requiring engineers to cause the bell of the locomotive to be rung or the whistle blown on approaching crossings. The companies stated that if Mr. Metz would make specific complaint, action would be taken. These answers were forwarded to the complainant, and no reply having been received from him, the case was ordered closed.

XXVI.

IN THE MATTER OF THE COMPLAINT OF JOHN W. MORRIS AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, RELATIVE TO CHECKING CHARGES ON BAGGAGE.

June 4, 1895

Mr. Morris complained on May 9, 1895, that he was compelled to pay 25 cents charges for transporting a baby carriage, which was regarded as excess baggage by the railroad company. The New York Central Company replied that the Central Traffic and Trunk Line Association had taken up the question of the transportation of baby carriages and bicycles, and had directed that a reasonable charge for the transportation of such property be made, in accordance with which direction all roads in this State were now refusing to take baby carriages and bicycles as baggage. A copy of this reply was sent to Mr. Morris, with a statement that he could have a hearing before the Board if desired; as he answered in the negative, the case was on June 4th ordered closed.

XXVII.

IN THE MATTER OF THE COMPLAINT OF THE COMMON COUNCIL OF THE CITY OF UTICA AGAINST THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY, RELATIVE TO GATES AT THE CROSSING OF SUNSET AVENUE.

June 18, 1895.

A complaint from the Common Council of the city of Utica was received by the Board on April 9, 1895, alleging a dangerous crossing at Sunset avenue, and asking the Board to direct the erection of gates by the New York, Ontario and Western Railway Company. A hearing was had before the Board on May 7th, and, pending the determination of the case, President Fowler, of the company, agreed to place a flagman at the crossing. On June 18th another hearing was had before the Board at the rooms of the Chamber of Commerce, New York city, at which both sides were represented. An agreement was reached there between the complainants and the company, by which the company agreed to erect and maintain gates as desired. The case was thereupon ordered closed.

XXVIII.

IN THE MATTER OF THE COMPLAINT OF FRANKLIN MAHER AGAINST THE LONG ISLAND RAILROAD COMPANY, RELATIVE TO PAYMENT OF FARE.

June 25, 1895.

Complaint was received on May 17, from Mr. Maher, stating that he is a commuter on the Long Island Railroad from Flushing; that he forgot his commutation ticket one morning and that the conductor compelled him to pay his fare. Mr. Maher was advised to communicate with the railroad company in regard to the matter, and the case was dismissed on June 25, 1895. The right to ride upon a commutation ticket depends upon the presentation of the ticket.

XXIX.

IN THE MATTER OF THE COMPLAINT OF ELMER P. HARMON AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, RELATIVE TO PLANKING AT CHILI STATION.

June 26, 1895.

This complaint was received on May 28, and on June 25 a communication was received from the railroad company stating that the matter had been taken up and the cause for complaint removed. The case was closed on June 26.

XXX.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF WESTCHESTER COUNTY AGAINST THE MANHATTAN RAILWAY COMPANY, THE SUBURBAN RAPID TRANSIT COMPANY, AND THE NEW YORK, NEW HAVEN AND HARTFORD RAILROAD COMPANY. COMPLAINT RECEIVED MAY 17, 1895.

July 17, 1895.

The complainants in this case describe themselves as residents of Westchester County, and as residing between the village of New Rochelle and Willis avenue, in the city of New York, along the line of the Harlem River Branch of the New York, New Haven and Hartford Railroad Company. They complain of the Manhattan Elevated Railroad Company, and the Suburban Rapid Transit Company, and the New York, New Haven and Hartford Railroad Company. Their important allegations are that passengers on the Third avenue line of the Manhattan Company, having paid their fare of five cents to the One Hundred and Twenty-ninth street elevated station, are required to pay an extra fare of five cents on trains of the New Haven Company, operated, as complainants allege, by the Manhattan Company, which trains run from said One Hundred and Twenty-ninth street station across the Harlem River Bridge of the Suburban Company on the elevated tracks of the said Suburban Company to the station of the New Haven Company situated at Willis avenue on the north side of the Harlem River. They also complain that in like manner passengers having paid a fare of five cents for transportation on the trains of the New Haven Company, operated, as the petitioners allege, by the Manhattan Company across the said bridge of the Suburban Company on the elevated tracks of the said Suburban Company from said Willis avenue station to One Hundred and Twenty-ninth street station, are compelled to pay an extra fare of five cents from said One Hundred and Twenty-ninth street station to any station on the Third avenue line of the Manhattan Company.

The complainants set forth in full in the complaint chapter 743 of the laws of 1894, being "An act to facilitate travel upon elevated railroads in the city of New York."

They allege that the extra charges, so-called, complained of in the first paragraph of the complaint, are in violation of this act and ask that the Manhattan Company and the Suburban Company be compelled to transport passengers who have paid their fare on the Third avenue line of the Manhattan Company to One Hundred and Twenty-ninth street, without extra charge on the said train operated, as the petitioners allege, by the Manhattan Company across the said Harlem River Bridge to the Willis avenue station as aforesaid, and also that the Manhattan Company may be compelled to transport passengers who have paid their fare of five cents on the line operated, as the petitioners allege, by the Manhattan Company, from Willis avenue station to One Hundred and Twenty-ninth street without extra charge from One Hundred and Twenty-ninth street station to any station on the Third avenue line.

The Manhattan Company, answering the complaint, alleges that the Suburban Company had a right or franchise granted by law to construct and maintain a railroad from the southerly terminus at One Hundred and

Twenty-ninth street and Third avenue, across the Harlem River at or near the northerly end of Second avenue, along certain prescribed routes, and to operate the said railroad and to collect reasonable fares; that the said Suburban Company has, upon the faith of its grant, expended several millions of dollars in the construction of a railroad, and $250,000 in the construction of a bridge across the Harlem River; that the route prescribed for the said Suburban Company by the commissioners on the northerly side of the Harlem River, lay along certain land owned by the Harlem River and Portchester Railroad Company, leased to and occupied by the New Haven Company as a freight yard and for tracks; that, pursuant to the powers granted by subdivision 3 of section 26 of chapter 606 of the laws of 1875, the Suburban Company on or about the 16th of March, 1883, entered into a contract with the Harlem River and Portchester Railroad Company and the New Haven Company. This contract is submitted to the Board. Its main features are as follows:

The Harlem River and Portchester Railroad Company and the New Haven Company granted to the Suburban Company a perpetual right of way for an elevated road across the freight yard and tracks aforesaid. The Suburban Company agreed to construct such an elevated road of four tracks, and to grant to the New Haven Company *in perpetuo* the exclusive use of the two interior tracks, and also a perpetual right of way across the bridge over the Harlem River, connecting with the elevated railroads in Second and Third avenues. The New Haven Company agreed to pay to the Suburban Company monthly upon demand such rate *per capita* for all paying passengers carried by it upon said tracks and across said bridge as should thereafter be fixed by agreement or arbitration, the method of arbitration being provided in the contract. The bridge and tracks constructed by the Suburban Company were constructed subsequent to the execution of this contract, and the New Haven Company, after the making of the contract, established a passenger station on the east side of Willis avenue between the Southern Boulevard and East One Hundred and Thirty-second street pursuant to such contract, that being the station referred to in the complaint.

That on the 14th day of January, 1891, the Suburban Company and the New Haven Company entered into a contract described as supplementary to the contract already set forth. A copy of this contract is submitted to the Board, and its main features are as follows:

The New Haven Company agreed at its own expense and upon its own land to construct tracks connecting its Willis avenue station aforesaid with the two interior tracks constructed by the Suburban Company.

The New Haven Company agreed to run all its local passenger trains upon said tracks and over said bridge to and from the southerly terminus of the Suburban Company at One Hundred and Twenty-ninth street and Third avenue, and to sell at all its stations through tickets to One Hundred and Twenty-ninth street to persons applying therefor, and to pay to the Suburban Company at the rate of five cents *per capita* for each passenger so transported upon said tracks and over said bridge, except those holding commutation tickets or free passes, which payment was subject to certain deductions. The contract was to continue in force for two years after written notice by either party to the other of the intention to terminate it. It is still in force.

On the 30th of June, 1891, under the provisions of chapter 565 of the

laws of 1890, the Suburban Company was merged with the Manhattan Company, which latter company alleges that all the estate, property, rights, privileges and franchises of the Suburban Company became vested in the Manhattan Company.

The answer of the Manhattan Company further suggests that if chapter 743 of the laws of 1894 is an attempt to impair the franchise of the Manhattan Company, that it must be regarded as unconstitutional and void. This point is not regarded by the Board in arriving at its decision.

Finally the Manhattan Company asserts that it does not operate the trains of the New Haven Company between Willis avenue and One Hundred and Twenty-ninth street, and that it does not have any control over the rate of fare charged thereon. It asserts that its pecuniary interest in the operations of said trains is limited to a contractual right as provided by the contracts already set forth. It also asserts that it has no station at Willis avenue, and that no such station was ever designated for it or for the Suburban Company by commissioners pursuant to law, and that there is no authorized route of the Manhattan Company or the Suburban Company extending to Willis avenue.

The New Haven Company makes no formal answer, but its president by letter acknowledges the receipt of a copy of the complaint and states that nothing in the complaint states any grievance against his company. The New Haven Company did not appear upon the hearing.

Upon the hearing it was shown that under the contracts already referred to the method of operating trains between the One Hundred and Twenty-ninth street station of the Manhattan Company and the Willis Avenue station of the New Haven Company was as follows:

The New Haven Company issues tickets good to One Hundred and Twenty-ninth street, paying to the Manhattan Company five cents for each ticket so issued.

The Manhattan Company sells tickets good from One Hundred and Twenty-ninth street to any point on the Harlem River Branch of the New Haven Road, at the rate of fare established by the New Haven Company, retaining for its own use five cents for each ticket so sold. Such tickets, the Board understands, are only sold at the One Hundred and Twenty-ninth street station.

For each passenger transported between Willis avenue and One Hundred and Twenty-ninth street without a ticket the method of payment is for the representatives of the Manhattan Company to enter the New Haven trains at the Willis avenue station and there collect of all such passengers a fare of five cents. This method of payment is not that originally contemplated in the contracts. It was adopted because the Manhattan Company's officials, according to the testimony given before the Board, became convinced that their company was carrying many passengers without receiving compensation therefor.

Between Willis avenue and One Hundred and Twenty-ninth street the cars and engines used are those of the New Haven Company; the engineers and firemen are of that company, as well as the conductors and trainmen. At Willis avenue station a conductor and trainman, employes of the Manhattan Company, enter the New Haven trains for the purpose of collecting fare as heretofore described. A pilot, also an employe of the Manhattan Company, is taken on the engine for the purpose, as alleged, of conducting the trains of the New Haven Company along

the tracks of the Manhattan company with greater safety, he being familiar with the signal system of the Manhattan company. North of the Harlem River the tracks of the piece of route in question are situated upon land of the Harlem River and Portchester Railroad Company, of which the New Haven Company is lessee. So much of the route as lies between the Willis avenue station and the monument known as column 64 of the structure of the elevated railway, the distance between this station and this column being 562 feet, this particular road being designated in dark blue upon the map submitted to the Board, belongs to the New Haven Company. On behalf of the complainants it was urged before the Board that this 562 feet being physically an elevated structure comes within the scope of the statute of 1894. As a matter of proof it is not a part of any elevated railway as that term is known to the statutes of the State. It is a part of the route and construction of the New Haven Company. On behalf of the Manhattan Company it was urged before the Board that neither that company nor the Suburban Company was authorized to operate this route extending to Willis avenue or to maintain a station at the latter point. The remaining portion of the route in question is in length 1,999 feet, and extends from column 64 aforesaid to column U at One Hundred and Twenty-ninth street and Third avenue; it is a part of the route and of the structure of the Manhattan Company, as original owner or by virtue of a merger of the Suburban Company with the Manhattan Company, and includes a bridge; but, as recited before, the exclusive use of the two interior tracks terminating at Pier A has been granted *in perpetuo* to the New Haven Company, together with a perpetual right of way across the bridge.

It appears that on race days excursion trains are run in such a manner as to avoid changing cars at One Hundred and Twenty-ninth street. These trains are run by the Manhattan Company, and an additional fare of five cents is collected.

On all the facts the conclusions of the Board are:

First. That the trains between the One Hundred and Twenty-ninth street station and the Willis avenue station are not operated by the Manhattan Company in such sense as makes it practicable to grant the relief the petitioners seek.

Second. That at least that part of the route in question, lying between column 64 and the Willis avenue station, does not form any part of an elevated railroad in the city of New York. The law of 1894, therefore, does not apply to it, and the Manhattan Railway Company cannot be compelled to operate it.

Third. The Willis avenue station is not a station upon an elevated railroad. It is a station upon the New Haven road, and this latter road cannot be compelled to obey the provisions of the law of 1894.

Fourth. The provisions of chapter 743 of the laws of 1894 do not apply to the operation of these trains.

Although the complainants do not ask relief as to the New Haven road, and although that company says that the complaint states no grievance against it, it is, in the judgment of the Board desirable to ascertain whether the New Haven Company's charges for transportation under these contracts and under this method of operation are strictly in accordance with law. Upon this subject the Board is making inquiries.

September 10, 1895.

In view of the conclusions arrived at by the Board on July 17th, 1895, in the above entitled matter, to wit: That the provisions of chapter 743 of the laws of 1894 do not apply to the operation of trains of the New York, New Haven and Hartford Railroad Company between Willis avenue and One Hundred and Twenty-ninth street, the inquiry of the Board was further directed as to the right to charge a fare of five cents between those points.

The Board is of the opinion that, under section 37 of the Railroad Law, subdivision 5, the New Haven Company has the right to charge five cents between Willis avenue and the One Hundred and Twenty-ninth street station of the elevated road to anyone taking a train at either station intending only to ride between those stations. The company has not the right, however, to charge that rate for that portion of the route, to passengers taking the train at the One Hundred and Twenty-ninth street station to points beyond Willis avenue, or to those taking the train at points beyond Willis avenue to the One Hundred and Twenty-ninth street station. For one ride, no matter how short, the legal fare may be at least five cents, but in all other instances at the rate of three cents for every mile or portion thereof for the whole route covered. From the statement of the New Haven Company, it appears that it has so fixed its rates of fare that from and to points beyond One Hundred and Twenty-ninth street it does not exceed the legal rate of three cents per mile, even though it charges five cents for the ride between Willis avenue and One Hundred and Twenty-ninth street. For example, the distance from Pelham Manor to Willis avenue is 10.4 miles, and to One Hundred and Twenty-ninth street 10.54 miles; the legal rate for this distance at three cents a mile or fraction thereof is thirty-three cents; the total charge to One Hundred and Twenty-ninth street is twenty-five cents, eight cents less than the legal rate, and the fares to and from all other stations on the Harlem River Branch are, according to the schedule of rates, proportionately within the statutory limits.

The fare between Pelham Manor and One Hundred and Twenty-ninth street is divided as follows: To Willis avenue, twenty cents; from Willis avenue to One Hundred and Twenthy-ninth street, five cents. This five cents, as the evidence shows, is collected on the train by employes of the Manhattan Company. If the New Haven Company sold tickets through its own agents at Pelham Manor, for instance, or through the agents of the Manhattan Company at One Hundred and Twenty-ninth street to Pelham Manor for twenty-five cents, there could be no question as to its right to charge that sum for the distance traveled. The method adopted, however, for the collection of the rental to the Manhattan Company is open to the objection that it in effect selects a particular mile of a continuous ride for which it charges and separately collects a five-cent fare, although for the remainder of the ride the rate is such as to bring the total charge within the statutory limit.

An appeal is pending in above.

XXXI.

IN THE MATTER OF THE COMPLAINT OF L. M. FRIEDMAN AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, RELATIVE TO CHARGES ON A BICYCLE.

July 18, 1895.

This complaint was received on July 13 and dismissed on the 18th, a communication being sent the complainant that there was no law requiring railroad companies to transport bicycles free of charge.

XXXII.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF GUILFORD AGAINST THE NEW YORK, ONTARIO AND WESTERN RAILWAY, RELATIVE TO A DANGEROUS CROSSING.

July 30, 1895.

On March 2d, 1895, complaint was received from the residents of the village of Guilford alleging a dangerous crossing of the railroad at its intersection with the Gospel Hill Road in that village. The company replied that it had been anxious to make a change in this crossing and asked until April 10 to examine into the matter to determine what could be done. An examination of the premises was made by the inspector of the Board, who recommended that the railroad company construct an undercrossing upon the Gospel Hill Road, and that the two extra road grade crossings be eliminated by constructing a road east of the outlet of Guilford Lake, as shown by a sketch attached to the report. Subsequently a communication was received from the railroad company stating that negotiations were pending with the Highway Commissioners of Guilford and that a satisfactory adjustment of the matter would be arrived at. The case was ordered closed on July 30, 1895.

XXXIII.

IN THE MATTER OF THE COMPLAINT OF ORIN E. WEST AGAINST THE NEW YORK, ONTARIO AND WESTERN RAILWAY COMPANY, RELATIVE TO TRAINS STOPPING AT CAUGHDENOY STATION.

July 30, 1895.

This complaint was received on March 18, 1895, and alleged insufficiency of train service at Caughdenoy. The company replied, alleging the service to be ample. An investigation was made by the inspector of the Board, who recommended that a trial be made by the railroad company for a few months of stopping on signal Train No. 5 on Monday, and Nos. 1 and 6 in addition to those now stopping at that point. The company replied by letter on April 18th, that a change was to be made in the time-table and that the superintendent had been instructed by the general manager, if possible, to make such train service for Caughdenoy as would accommodate the residents, in accordance with Mr. West's com-

plaint. No further communication being received from Mr. West, it was assumed that a satisfactory arrangement had been made by the railroad company, and on July 30th the case was ordered closed.

XXXIV.

IN THE MATTER OF THE COMPLAINT OF THE WATERTOWN PAPER COMPANY AGAINST THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD COMPANY, RELATIVE TO SIDETRACK.

September 5, 1895.

On May 30th, the Watertown Paper Company complained that the rails of a branch track that had been used for twenty years by the company for loading and unloading its cars, had been torn up by the railroad company without cause. On June 12th, the company advised the Board that the rails had been replaced and the cause of complaint removed, of which the complainant was duly advised. Nothing further having been heard from the complainant, the case was, on September 5th, ordered closed.

XXXV.

IN THE MATTER OF THE COMPLAINT OF A. DEIMEL AGAINST THE FONDA, JOHNSTOWN AND GLOVERSVILLE RAILROAD COMPANY, RELATIVE TO ACCOMMODATIONS FOR COAL YARDS AT JOHNSTOWN AND GLOVERSVILLE.

September 9, 1895.

This complaint was received on June 14, and alleged that the railroad company refused to give proper switching accommodations for the complainant's coal yards at Johnstown and Gloversville. After several hearings and a personal investigation by Commissioner Rickard, the Board suggested an amicable settlement, which was acceded to by the railroad company, and on August 9 an indefinite postponement was ordered to give the railroad company an opportunity to comply with Mr. Deimel's request. On September 9, no further communication having been received from Mr. Deimel in accordance with the agreement, the case was ordered closed.

XXXVI.

IN THE MATTER OF THE COMPLAINT OF DURKEE & MONTAYNE, OF SARATOGA SPRINGS, AGAINST THE DELAWARE AND HUDSON CANAL COMPANY, RELATIVE TO CHANGE OF SWITCH.

September 9, 1895.

Complaint was received by the Board on July 18 from Durkee & Montayne, coal dealers at Saratoga Springs, asking that the Delaware and

Hudson Canal Company be compelled to permit them to change the switch to their coal yard so that it would enter from the north side instead of the south side. A hearing was set down for September 9, at the office of the Board, at which complainants did not appear. It was shown by the railroad company that the switch as at present arranged was located by the Board of Railroad Commissioners some years ago after a full investigation, and that it would be dangerous to make any change. The case was dismissed.

XXXVII.

IN THE MATTER OF THE COMPLAINT OF EZRA ORCUTT AGAINST THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY, RELATIVE TO FENCES.

September 9, 1895.

Complaint was received on August 13 from Mr. Orcutt asking that the New York, Lake Erie and Western Railroad Company be compelled to build a new fence across his farm at Union. On August 21 the railroad company answered that the fence would be immediately placed in proper condition, and on September 9 the case was ordered closed.

XXXVIII.

IN THE MATTER OF THE COMPLAINT OF S. J. DAVIS AGAINST THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY, RELATIVE TO FENCES.

September 9, 1895.

On August 19 Mr. Davis complained that the fences adjoining his property at Hooper were in bad repair. On August 26 the New York, Lake Erie and Western Railroad Company replied, agreeing to put the fence in proper condition. September 9 the case was ordered closed.

STATIONS AND STATION BUILDINGS

I.

IN THE MATTER OF THE COMPLAINT OF L. J. ROSSMAN AGAINST THE KINDERHOOK AND HUDSON RAILROAD COMPANY, IN RELATION TO THE CLOSING OF ROSSMAN'S STATION.

January 15, 1895.

On June 29, 1894, L. J. Rossman, representing the Rossman Knitting Company, complained that the Kinderhook and Hudson Railroad Company contemplated the closing of Rossman's Station, entered a protest against this action, and asked the intervention of the Board. J. W. Brown, Superintendent of the Kinderhook and Hudson Railroad, replied to the effect that the entire freight business at this station for the month of June, 1894, was only $13.18, and the passenger business $51.85. He said the road could not afford to continue to pay an agent at that point, but would maintain the station without an agent. On July 18 an informal application to close the station was made by Mr. Brown, and a hearing on Mr. Rossman's complaint was set down for July 30. On that date Mr. Brown appeared, representing the railroad, and J. C. Hogeboom, representing Mr. Rossman, and it was ordered that if it was desired to close the station an application must be made in regular form, and a hearing before the Board advertised in the papers published in the locality in which the station is located. No such application was made, and nothing further having been heard from the complainant, the case was ordered closed on January 15, 1895.

II.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY FOR PERMISSION TO DISCONTINUE THE PRESENT STATION AT GLEN COVE ON THE LINE OF ITS RAILROAD UNDER SECTION 34 OF THE RAILROAD LAW.

May 1, 1895.

Ordered that said application be and it is hereby denied.

By the Board,

CHARLES R. DEFREEST,
Secretary.

MEMORANDUM IN ABOVE ENTITLED MATTER.

In reaching the conclusion set forth in the order the Board has not overlooked the advantages which might accrue to the people of Glen Cove from the construction of a new station upon a different site. Such a site has been selected, and a tasteful plan for a station to be constructed upon that site has been prepared and was exhibited to the Board at the hearing. The arguments urged on behalf of those who wish the present station abandoned, in order that a new one may be established and constructed in accordance with this design, were forcible and indicate a progressive public spirit. In this application, however, the point presented to the Board is the question whether under the statute it should permit the discontinuance by the railroad company of an important station which has done good service for a great number of years. Upon the question of such discontinuance the weight of local public sentiment seems to be strongly in the negative. This preponderance of public sentiment cannot well be disregarded at this stage of the application. There is special force in this reflection because the denial of the application to discontinue the old station does not prevent the construction of the new one upon the site and in the manner proposed by those who wish the old one to be discontinued. The existence of such second station within half a mile of the old one would soon test the question of its superiority, and in case such superiority were proven, public sentiment might be expected to change quite rapidly. Furthermore, this disposition of the question would seem to work no hardship upon the railway company. On behalf of the company it has been represented that the old station was to be continued as a freight depot. The difference in expense between maintaining two passenger stations, as is suggested in this memorandum, and maintaining the proposed new station and the old station as a freight depot, cannot be important. Two stations so near together are not exceedingly objectionable upon this part of the line as it is not the main line of the road and there are no through trains upon it.

III.

IN THE MATTER OF THE PETITION OF RESIDENTS OF EAST MORICHES, LONG ISLAND, REQUESTING THAT A STATION BE ESTABLISHED AND MAINTAINED AT THAT VILLAGE BY THE LONG ISLAND RAILROAD COMPANY. COMPLAINT RECEIVED MAY 13, 1895.

July 17, 1895.

The petition herein states that the distance between the stations at Moriches and Eastport is 3.6 miles, and that the distance from either of these stations to many important points in the locality where the petitioners reside is from two and one-half to three miles. Further, that in only five instances is the distance between stations between Jamaica and Eastport so great as in this case, and that in none of these instances is there any such intermediate village as in this case. It is further asserted, that East Moriches is a village of more than 600 permanent inhabitants; that its stores are larger than any within nine miles; that it has numerous hotels and boarding houses which accommodate more than 1,000 guests

each summer, and that about it and near it there is a prosperous and thrifty farming community, so that East Moriches is a shipping point of some consequence. The complainants further say that in nine instances between Jamaica and Speonk stations are nearer together than the distance would be from the present Moriches station to this proposed East Moriches station, and also nearer than would be the distance from the proposed East Moriches station to the existing station at Eastport. Also, it is stated in the petition that in many cases these existing stations are located at places much smaller and less important than the village of East Moriches.

The company refuses to establish this station at the request of the residents on the ground that it would add greatly to the difficulty of operating the road, as the road is already embarrassed by the great multiplicity of stations. The company also says that it is rare that stations are nearer together than the distance between the existing stations of Moriches and Eastport, that distance being, as stated by the complainants, 3.6 miles. It is also stated on hehalf of the company that it cannot abandon the old station of Eastport, as that is a junction point. Also that Moriches is divided into West Moriches, Centre Moriches and East Moriches, and that the station was placed at Centre Moriches as being the locality most convenient for the settlement. Further, it is urged on behalf of the road that if a station is placed at East Moriches, the people of West Moriches would have a grievance.

A reply to the company's answer is filed on behalf of the petitioners, but presents no new issue not already raised by the petition and answer.

The Board has visited the locality twice in connection with its consideration of this application, and there have been two hearings before the Board in the city of New York beside one at East Moriches.

It cannot be questioned that the present arrangement imposes a considerable degree of inconvenience upon many of the residents of East Moriches. Neither can it be questioned that that community is an active and thriving body of people whom it is desirable to accommodate in all practicable ways. The application in so far as it asks the Board to direct the company to establish a new station is novel. Some question was raised before the Board touching the power of the Board to grant such an application or to give such a direction to a railway company. In an absolutely clear case the Board would not hesitate to act through doubt of its own jurisdiction. This case before us is not so clear as to call for the exercise by the Board of this branch of its jurisdiction. Interference by the Board with the method of operation of a railroad, when that interference is of the character desired by the complainants herein, must be based upon very strong grounds. It is true that many of the inhabitants of East Moriches are now compelled to travel from two and one-half to three and one-half miles to reach the existing stations, but the granting of the application would only lessen this embarrassment by perhaps on the average a mile and one-half.

This degree of accommodation would only be accomplished by imposing a considerable embarrassment upon the operation of this part of the line of the Long Island Railroad. As now operated, the trains of the company cannot conveniently increase their number of stops. This part of the line of the company is important and is assuming the character of a through line. It is possible that when it is completed and extended to

its final easterly terminus, new methods of operation will obviate some difficulties which now stand in the way of granting this application. Should this be the fact, or if for any reason it may hereafter seem advisable to reconsider the application, the Board stands ready to do so, and such renewed application would suffer no prejudice by reason of the decision now given.

This present application is, therefore, denied, but, as suggested, without prejudice to its renewal at some later day.

IV.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY FOR PERMISSION TO CHANGE THE LOCATION OF STATION AT FARMINGDALE, QUEENS COUNTY, N. Y.

September 10, 1895.

Application having been made on May 9, 1895, by the Long Island Railroad Company for permission to remove its station at Farmingdale, Queens County, from its present location between Main and Division streets to a point about one thousand feet east, to wit: Between Farmingdale and Forest avenues; and a hearing having been had on said application at the office of Commissioner Chapin in New York City on May 21, 1895, at which appeared A. A. Gardiner, counsel, for the company, and A. F. Van Thin, counsel, in opposition; and a personal inspection of the premises having subsequently been made by the Board; and it appearing that the present station building is old and dilapidated and insufficient in size to accommodate the traffic at this point; that it encroaches upon the public street; that there is no room for enlarging or improving it, and that the company, if granted permission to make the desired change, will immediately acquire accommodations on the new site for the erection of a commodious station, giving better facilities for operation; now, therefore, it is

Ordered, that the request of the Long Island Railroad Company for permission to remove its station at Farmingdale from its present location to a point about one thousand feet east, to wit: Between Farmingdale and Forest avenues, as shown on a map filed with the application by the petitioner, be and the same is hereby granted, and further,

That permission is also granted to remove the freight house from its present location between Division and Elizabeth streets to a point east of the proposed passenger depot and midway between Dexter and Oakview avenues.

V.

IN THE MATTER OF THE COMPLAINT OF RICHMOND & JAMES AGAINST THE FITCHBURG RAILROAD COMPANY, RELATIVE TO INSUFFICIENT AND DANGEROUS STATION ACCOMMODATIONS AT HOOSICK.

September 30, 1895.

This complaint was made on January 22, 1894. After an investigation by the inspector of the Board and several hearings before the Board the

company was ordered to build a suitable station at Hoosick. Subsequently a request was made for a suspension of the order pending changes in the location of the tracks and preparation of plans for the station. This request was complied with, but no effort was made by the railroad company to rebuild the station, and on September 9, 1895, the complaint of Richmond & James was renewed. A further examination was made by the inspector, who reported that the location of the tracks had been changed and that a contract had been awarded by the company for the construction of the station, but that the contractor had defaulted. The company was thereupon notified that unless immediate steps were taken to complete the erection of suitable station accommodations at Hoosick the matter would be referred to the Attorney-General. On September 30 a letter was received from Mr. Marcy, the president of the company, stating that all arrangements had been made for the erection of the station and that it would be completed in November. Upon this representation proceedings were suspended.

VI.

IN THE MATTER OF THE COMPLAINT OF RESIDENTS OF CHERRY CREEK AGAINST THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD COMPANY RELATIVE TO STATION ACCOMMODATIONS.

October 1, 1895.

On March 22, 1895, complaint was received from the residents of Cherry Creek, on the line of the New York, Lake Erie and Western Railroad, alleging that a station had been built at that point some years ago mainly by subscription of the residents of the place; that the station had subsequently been deeded to the Erie Railroad with an insurance of $1,800 upon it, and that a short time thereafter the station had been destroyed by fire caused by sparks from a locomotive; that the railroad company had collected the insurance and had persistently neglected and refused to rebuild the station. A hearing was had before the Board on May 7, when the facts as alleged were practically admitted by the railroad company. Owing to the financial condition of the company an adjournment was asked until September 9, the attorney of the company promising in the meanwhile some steps would be taken looking to the rebuilding of the station. At the hearing on September 9, it appearing that nothing had been done by the company, the secretary was directed to proceed to Cherry Creek and take testimony for presentation to the Attorney-General. On September 30, however, a letter was received from George F. Brownell, attorney for the company, stating that plans had been prepared, and that a new station would be erected at once at Cherry Creek. In view of these assurances, further proceedings were indefinitely suspended.

APPLICATIONS FOR CHANGE OF MOTIVE POWER.

I.

IN THE MATTER OF THE APPLICATION OF THE NASSAU ELECTRIC RAILROAD COMPANY FOR PERMISSION TO OPERATE ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF PROPULSION IN NEW YORK AVENUE FROM FULTON STREET TO ATLANTIC AVENUE.

November 20, 1894.

Application by the Nassau Electric Railroad Company of the city of Brooklyn having been duly made to this Board on or about November 12, 1894, for its approval of the operation of that portion of the applicant's railroad in New York avenue from Fulton street to Atlantic avenue in the said city, by the overhead electrical trolley system, and hearing having been had on said application on November 20th, at the Common Council Chamber, City Hall, Brooklyn, John J. Allen, Esq., appearing as counsel for the said company and no one appearing in opposition thereto, now, after hearing John J. Allen for said application, and after filing due proof of publication of notice of hearing, and after reading and filing the affidavits of James C. Church and P. H. Flynn, now, therefore, it is

Ordered, that said application be and hereby is approved, upon the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities and subject to such further regulation as to speed or otherwise by this Board as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

II.

IN THE MATTER OF THE APPLICATION OF THE WALDEN AND ORANGE LAKE RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE OPERATION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER.

January 30, 1895.

Application by the Walden and Orange Lake Railroad Company having been duly made to this Board on or about January 2, 1895, for the approval of the Board of the operation of its railroad by the overhead electrical trolley system, and a hearing having been had on said application on Tuesday, January 29, 1895, at the rooms of the Chamber of Commerce in the city of New York, William D. Dickey appearing as counsel for said company, and no one appearing in opposition to the application; now, after hearing William D. Dickey for said application, and after filing due proof of the publication of notice of hearing before this Board, and after reading and filing the affidavits of William H. Post, Corsa M. Kidd and Harry Hollingsworth, and due proof of the consent of the local authorities, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the use of the overhead electrical trolley system motive power is proposed, and the local authorities have consented thereto, now, therefore, it is

Ordered, that said application be, and it is hereby approved, upon the following routes, to wit: Beginning at a point at the east end of the iron bridge over the Walkill River, in the village of Walden, and running thence easterly along Main street and Chestnut street in said village to the boundary line of the village; thence easterly through, along and over the highway formerly known as the Newburgh and Ellenville Plankroad, in the town of Montgomery, and the town of Newburgh, to a point opposite the lands of Edward Fitzgerald, near Orange Lake, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation as to speed or otherwise by this Board as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not

intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

III.

IN THE MATTER OF THE APPLICATION OF THE BALLSTON ELECTRIC RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE OPERATION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER.

February 27, 1895.

Application by the Ballston Electric Railroad Company having been duly made to this Board on or about February 6th, 1895, for the approval of the Board of the operation of its railroad by the overhead electrical trolley system, and a hearing having been had on said application, on Tuesday, February 26th, 1895, John H. Burke, appearing for the application and no one appearing in opposition; now, after hearing John H. Burke for said application, and after filing due proof of the publication of notice of hearing before this Board, and after reading and filing the affidavits of Seymour C. Rowley, Walter Furlong and William A. Cady, and due proof of the consent of the local authorities, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the use of the overhead electrical trolley system of motive power is proposed, and the local authorities, have consented thereto, now, therefore, it is

Ordered, that said application be, and it is hereby approved upon the following routes, to wit: Beginning at the corner of Bath and Front streets in the village of Ballston and continuing along Front street to Milton avenue; thence along Milton avenue to Van Buren street; thence along Van Buren street to Mechanic street; thence along Mechanic street across the most northerly branch of Kayaderosseras creek to the intersection of Kent with said Mechanic street; thence along the street or highway leading from said point of intersection to Saratoga avenue; and thence along Saratoga avenue to Milton avenue; thence northerly along Milton avenue to South street; thence westerly along South street to the westerly corporation line of the village of Ballston Spa, and a branch therefrom at the intersection of Milton avenue and South street, along Milton avenue, to and along Union street, and thence continuing from the corporation line at South street before mentioned along the highway in the town of Milton known as Maple avenue, to Bloodville, and thence through Bloodville to Factory Village, via the highway known as the Creek Road, to Rock City Falls, and from thence via the highway

known as the New Road to the village of Middle Grove in the town of Greenfield, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

IV.

IN THE MATTER OF THE APPLICATION OF THE HERKIMER, MOHAWK, ILION AND FRANKFORT ELECTRIC RAILWAY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF A CHANGE OF MOTIVE POWER FROM HORSES TO THE OVERHEAD ELECTRICAL TROLLEY SYSTEM ON ITS RAILROAD.

March 21, 1895.

Application by the Herkimer, Mohawk, Ilion and Frankfort Electric Railway having been duly made to this Board on or about March 5, 1895, for its approval of a change of motive power from horses to the overhead electrical trolley system on the following routes, to wit: Commencing at the intersection of Main and Litchfield streets in the village of Frankfort, thence easterly along the said Main street to the easterly boundary line of the corporate limits of said village; thence easterly along the highway leading from Frankfort to the westerly corporate line of the village of Ilion; thence in the highway leading to the village of Mohawk, to and through Main street in the village of Mohawk to a point opposite the bridge which carries the West Shore Railroad over the highway leading from Mohawk to Herkimer; thence northerly along the highway leading to Herkimer to the southerly corporate limits of the village of Herkimer; thence along Mohawk street in said village of Herkim r to a point where it intersects Main street in said village of Herkimer; thence

along Main street to the tracks of the New York Central Railroad; and a hearing having been had on said application at the rooms of the Board in the Capitol, Albany, J. Ledlie Hees, appearing for the applicant, and no one appearing in opposition to the application; now, after hearing J. Ledlie Hees, and after filing due proof of publication of notice of this hearing, and after reading and filing the petition of said railroad company, and after reading and filing the affidavit of James A. Stewart, from which it appears that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the change of motive power is proposed have consented thereto, it is

Ordered, that said application be and hereby is approved, upon the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjacent track. No person (except an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

V.

IN THE MATTER OF THE APPLICATION OF THE STATEN ISLAND MIDLAND RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMMISSIONERS OF THE OPERATION OF A PORTION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE.

April 30, 1895.

Application by the Staten Island Midland Railroad Company having been duly made to this Board on or about December 24, 1894, for the approval of the Board of the operation of its railroad on certain specified streets and highways by the overhead electrical trolley system, and a hearing having been had on said application at the Chamber of Commerce, New York city, on January 29, 1895, and several adjourned hearings having been had thereon, Joseph N. Tuttle, counsel, appearing for the company, and no one in opposition; now, after hearing Joseph N. Tuttle for

said application, and after filing due proof of the publication of notice of hearing before this Board, and after reading and filing the affidavit of Robert Moore, chairman of the Board of County Assessors of Richmond County, and it appearing therefrom that the owners of more than one-half in value of the property, bounded on the following portion of the railroad with respect to which the use of the overhead electrical trolley system of motive power is proposed, to wit: from the intersection of the Richmond road with Oak street, along Oak street to the Clove road and along the Clove road to Richmond turnpike, having consented thereto, it is

Ordered, that said application be and it is hereby approved, so far as it relates to the following streets and highways, to wit: from the intersection of the Richmond road with Oak street, along Oak street to the Clove road and along the Clove road to Richmond turnpike, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction, or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

VI.

IN THE MATTER OF THE APPLICATION OF THE METROPOLITAN STREET RAILWAY COMPANY AND THE TWENTY-THIRD STREET RAILWAY COMPANY, FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE USE OF CABLE POWER UPON THE RAILROAD IN TWENTY-THIRD STREET, IN THE CITY OF NEW YORK, BETWEEN NORTH RIVER AND EAST RIVER.

May 1, 1895.

Application having been made to this Board by the Metropolitan Street Railway Company and the Twenty-third Street Railway Company, of the city of New York, by petition bearing date April 17, 1895, for the approval of the Board, of a change of motive power from horse power

to a system of cable traction on its railroad on Twenty-third street, between North and East rivers, and a hearing having been had on said application on the 1st day of May, 1895, at the rooms of the Chamber of Commerce, at No. 32 Nassau street, in the city of New York, and Henry A. Robinson appearing as counsel for the petitioners, and no one appearing in opposition thereto. Now, after hearing Henry A. Robinson, counsel for the petitioners, and after filing due proof of publication of the notice of hearing, as directed by the Board to be advertised, and after reading and filing the petition of the said railroad companies, dated April 17, 1895, and the affidavit of S. A. Emanuel, dated April 18, 1895, and the affidavit of Peter J. Kelley, dated April 18, 1895, and an examination of the original consents presented to the Board for the purpose of a change of motive power, and it appearing therefrom that the total assessed value of all property on said street, as ascertained and determined from the assessment roll completed August 28, 1894, is $19,549,750, and that the owners of property, the assessed value of which is $9,830,750, have executed consents to such change of motive power and that the petitioners have obtained consents to the amount of $55,875 in excess of the one-half in value of the property bounded on that portion of the company's railroad on Twenty-third street, between East and North rivers, with respect to which a change of motive power is proposed to be made. Now, on motion of Henry A. Robinson, counsel for said petitioners, it is

Ordered, that said application be and hereby is approved upon the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation as to speed or otherwise by this Board, as may hereafter seem fit and proper.

Second. Any and all changes in location of tracks, water, sewer or gas pipes, or other underground structures rendered necessary by the construction of the conduit of such cable power, shall be by agreement with the Commissioner of Public Works, and under his direction and supervision, at the expense of said company.

Third. The rail to be laid shall be such as shall be approved by the Commissioner of Public Works, of the city of New York.

Fourth. The company shall remove the snow from its tracks, and not throw it on either side thereof.

Fifth. An efficient guard or safety fender shall be attached to the trucks of all cable cars.

VII.

IN THE MATTER OF THE APPLICATION OF THE METROPOLITAN STREET RAILWAY COMPANY AND THE SIXTH AVENUE RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE USE OF AN UNDERGROUND CURRENT OF ELECTRICITY AS MOTIVE POWER.

May 1, 1895.

Application having been made to this Board by the Metropolitan Street Railway Company and the Sixth Avenue Railroad Company, on

or about April 6, 1895, for the approval of the Board of the use of an underground current of electricity as motive power on Lenox avenue between the Harlem river and One Hundred and Tenth street; on One Hundred and Sixteenth street between Morningside Park and the East river; on Manhattan avenue between One Hundred and Sixteenth street and One Hundred and Ninth street; and on One Hundred and Ninth street, between Manhattan and Columbus avenues in the city of New York, and a hearing having been given on said application on the first day of May, 1895, at the rooms of the Chamber of Commerce, 32 Nassau street, New York city, Henry A. Robinson, counsel, appearing for the application and no one in opposition thereto; now, after hearing Henry A. Robinson for said application, and after filing due proof of publication of notice of hearing before this Board, and after reading and filing the affidavits of Solomon A. Emanuel and Peter J. Kelly, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the use of an underground current of electricity as motive power is proposed have consented thereto, now, therefore, it is

Ordered, that said application be and it is hereby approved on the following streets, to wit: On Lenox avenue between the Harlem River and One Hundred and Tenth street; on One Hundred and Sixteenth street between Morningside Park and the East river; on Manhattan avenue between One Hundred and Sixteenth street and One Hundred and Ninth street, and on One hundred and Ninth street between Manhattan and Columbus avenues, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation as to speed or otherwise by this Board as may hereafter seem fit and proper.

Second. Any and all changes in location of tracks, water, sewer or gas pipes or other underground structures rendered necessary by the construction of the conduit, shall be by agreement with the Commissioner of Public Works and under his direction and supervision, at the expense of said company.

Third. The rail to be laid shall be such as shall be approved by the Commissioner of Public Works of the city of New York.

Fourth. The company shall remove the snow from its tracks and not throw it on either side thereof.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

Seventh. The company shall equip its cars with a safety guard in front of the wheels, coming within an inch of the track, of such construction as to prevent persons being run over in case of falling in front of the cars.

Eighth. The rate of speed on Lenox avenue above One Hundred and Sixteenth street shall not exceed twelve miles an hour.

Ninth. Concerning the crossing of the Third Avenue railroad at One Hundred and Twenty-fifth street and the crossing of the Union railway at One Hundred and Thirty-fifth street, agreement shall be made between the companies as to right of way, and copies of such agreements shall be filed in this office within thirty days, otherwise an order will be made in the matter by this Board.

This order is granted without prejudice to any rights of the Third Avenue Railroad Company to have the One Hundred and Sixteenth street section of the route applied for operated by cable traction by the Metropolitan Street Railway Company.

VIII.

IN THE MATTER OF THE APPLICATION OF THE STILLWATER AND MECHANICSVILLE STREET RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO THE OVERHEAD ELECTRICAL TROLLEY SYSTEM ON ITS RAILROAD NOW OPERATED BY HORSES.

May 7, 1895.

Application by the Stillwater and Mechanicville Street Railway Company having been duly made to this Board on or about April 12, 1895, for the approval of the Board of a change of motive power from horses to the overhead electrical trolley system on its railroad now operated by horses, and a hearing having been given on said application on Tuesday, May 7, 1895, J. A. Powers appearing for the application and no one in opposition; now, after hearing J. A. Powers for said application, and after filing due proof of the publication of notice of hearing before this Board, and after reading and filing the affidavits of W. H. Allen, Peter Van Veghten, John F. Callett and William H. Blood, assessors, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which a change of motive from horses to the overhead electrical trolley system is proposed, have consented thereto; now, therefore, it is

Ordered, that said application be and is hereby approved, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

Seventh. At the crossing of the tracks of the Rensselaer and Saratoga railroad by the street railroad, a derailing switch shall be placed on the track of the street railroad, so arranged that the conductor of the street car must cross the steam railroad tracks in order to adjust the switch before the street car can proceed.

IX.

IN THE MATTER OF THE APPLICATION OF THE TROY CITY RAILWAY COMPANY ON ITS OWN BEHALF AND AS LESSEE OF THE TROY AND COHOES RAILROAD FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO THE OVERHEAD ELECTRICAL TROLLEY SYSTEM ON A PORTION OF THE SAID TROY AND COHOES RAILROAD.

May 7, 1895.

Application by the Troy City Railway Company on its own behalf and as lessee of the railroad of the Troy and Cohoes Railroad Company having been duly made to this Board on or about April 23, 1895, for the approval of the Board of a change of motive power from horses to the overhead electrical trolley system on a portion of the said Troy and Cohoes Railroad, and a hearing having been had on said application on Tuesday, May 7, 1895, William Shaw, counsel, appearing for the application and no one in opposition; now, after hearing William Shaw for said application and after filing due proof of the publication of notice of hearing before this Board, and after reading and filing the affidavits of Robert B. Waters, village clerk of the village of Green Island, and Lewis Taylor, one of the assessors of the city of Cohoes, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the change of motive power from horses to the overhead electrical trolley system is proposed, have consented thereto, now, therefore, it is

Ordered, that said application be, and it is hereby approved on that portion of the Troy and Cohoes Railroad, as follows: Extending from the southern terminus of the Troy and Cohoes Railroad, in the city of Troy, to and across the Hudson River over the bridge of the Rensselaer and Saratoga Railroad Company to George street, in the village of Green Island; from thence into and along George street to Tibbitts street; from thence into and along Tibbitts street to what is known as Cohoes avenue; from thence into and along Cohoes avenue to the road sometimes called the State Dyke Road; from thence into and along said State Dyke Road, so-called, and Dyke avenue to lands owned by the com-

pany; from thence into and upon said lands to Saratoga street in the city of Cohoes; from thence into and along Saratoga street to Mohawk street, and from thence into and along Mohawk street to its intersection with Ontario street, in the city of Cohoes, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires, but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard to be of such a nature that it may be transferred from one side to the other.

X.

IN THE MATTER OF THE APPLICATION OF JOHN P. O'BRIEN AND GEO. B. M. HARVEY, PURCHASERS OF THE STATEN ISLAND BELT LINE RAILROAD COMPANY, FOR THE CONSTRUCTION OF THE ORDER OF THIS BOARD PERTAINING TO THE ORDER MADE APPROVING THE CHANGE OF MOTIVE POWER OF THE SAID ROAD.

May 7, 1895.

Application having been made to this Board, signed by John P. O'Brien and Geo. B. M. Harvey, purchasers of the railroad of the Staten Island Belt Line Railroad Company, dated May 6, 1895, for a construction of the order of this Board heretofore made on the 27th of February, 1893, approving the change of motive power of the said road, and for the direction of this Board in the premises, it is

Ordered, that by said order of February 27, 1893, this Board intended that the same should be complied with by the said Staten Island Belt Line Railroad Company, its successors or assigns, and that in complying with the conditions of the aforesaid order respecting the provisions of chapter 555 of the laws of 1890, the consent of the Board of Supervisors should be obtained by said Staten Island Belt Line Railroad Company, its successors or assigns, and it appearing that the consent to the construction of an electric railroad upon the county roads referred to in

said order of this Board, has been obtained by the Staten Island Electric Railroad Company upon an application made to said Board of Supervisors with the consent of the said Staten Island Belt Line Railroad Company, it is further

Ordered, that the said approval of this Board, contained in said order of February 27, 1893, is hereby made and confirmed, as well to the successors and assigns of said Staten Island Belt Line Railroad as to the said company itself.

XI.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN BOULEVARD RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF THE OPERATION OF ITS RAILROAD ON THE SOUTHERN BOULEVARD, BETWEEN THIRD AVENUE AND BOSTON AVENUE, IN THE CITY OF NEW YORK, BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM.

June 4, 1895.

Application by the Southern Boulevard Railroad Company having been duly made to this Board on or about May 21, 1895, for the approval of the Board of the operation of its railroad on the Southern Boulevard, between Third avenue and Boston avenue in the city of New York, by the overhead electrical trolley system motive power, and a hearing having been had on said application on Friday, May 31, 1895, at the Chamber of Commerce, New York city, W. H. Page, Jr., counsel, appearing for the application, and no one in opposition thereto; now, after hearing W. H. Page, Jr., for said application, and after filing due proof of the publication of notice of hearing before this Board, and after reading and filing affidavit of Anthony McOwen, a deputy tax commissioner in and for the city and county of New York, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the use of the overhead electrical trolley system of motive power is proposed have consented thereto, now, therefore, it is

Ordered, that said application be and it is hereby approved and granted, with the following conditions which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such of a construction and height as to conform to the requirements of the local authorities.

Third. The rail to be laid shall be such as shall be approved by the Commissioner of Public Works of the city of New York.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other com-

panies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. No car shall be run with less than two men to operate it.

Sixth. The company shall equip its cars with a safety guard in front of the wheels, coming within an inch of the track, of such construction as to prevent persons being run over in case of falling in front of the cars.

Seventh. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any electric car.

Eighth. On all open cars there shall be attached a guard rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard rail or device to be of such a nature that it may be transferred from one side to the other.

XII.

IN THE MATTER OF THE APPLICATION OF THE ROME CITY STREET RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO COMPRESSED AIR MOTORS.

June 25, 1895.

Application by the Rome City Street Railway Company having been duly made to this Board on or about June 4th, 1895, for the approval of the Board of a change of motive power from horses to compressed air motors, and a hearing having been given on said application on Tuesday, June 25, 1895, William P. Rayland appearing for said application, and no one in opposition thereto; now, after hearing William P. Rayland for said application, and after filing due proof of the publication of notice of hearing before this Board, and after reading and filing the verified petition herein, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the change of motive power is proposed, and the local authorities have consented thereto, and after an inspection of the motor proposed to be used, it is

Ordered, that said application be and it is hereby approved, this approval applying to the route of the company now constructed and operated, with the following conditions which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. No motor car shall be run with less than two men to operate it.

Third. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (ex-

cept an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any motor car.

Fourth. On all open cars there shall be attached a guard rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard rail or device to be of such a nature that it may be transferred from one side to the other.

XIII.

IN THE MATTER OF THE APPLICATION OF THE OGDENSBURG STREET RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF A CHANGE OF MOTIVE POWER FROM HORSES TO THE OVERHEAD ELECTRICAL TROLLEY SYSTEM ON ITS PRESENT RAILROAD AND ON EXTENSIONS TO BE BUILT.

June 25, 1895.

Application by the Ogdensburg Street Railway Company having been duly made to this Board on or about June 8, 1895, for the approval of the Board of a change of motive power from horses to the overhead electrical trolley system on its present railroad and on extensions to be built, and a hearing having been given on said application on Tuesday, June 25, 1895, Robert E. Waterman, counsel, appearing for the application and no one in opposition thereto; now, after hearing Robert E. Waterman for said application, and after filing due proof of the publication of notice of hearing before this Board, and after reading and filing the affidavits of Alric R. Herriman and Orlando F. Partridge, and it appearing that the local authorities and the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the use of the overhead electrical trolley system of motive power is proposed have consented thereto, it is

Ordered, that said application be and it is hereby approved, this approval applying to the railroad of the company already constructed and to extensions to be constructed easterly to the St. Lawrence State Hospital, and southerly through Lake street from the corner of Lake and River streets to the corner of Lake street and Rensselaer avenue; thence westerly through Rensselaer avenue to its intersection with New York avenue; also westerly through King street from its intersection with New York avenue to its intersection with Main street, and thence westerly through Main street to the westerly line of the city of Ogdensburg, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary), shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall he attached a guard rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard rail or device to be of such a nature that it may be transferred from one side to the other.

XIV.

IN THE MATTER OF THE APPLICATION OF THE COHOES CITY RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE OPERATION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER.

July 16, 1895.

Application by the Cohoes City Railway Company having been duly made to this Board on or about June 25, 1895, for the approval of the Board of the operation of its railroad by the overhead electrical trolley system, and a hearing having been had on said application on Tuesday, July 16, 1895, George H. Fitts, appearing for the application and no one in opposition; now, after hearing George H. Fitts for said application, and after filing due proof of publication of notice of hearing before this Board, and after reading and filing the affidavit of Lewis Taylor, and due proof of the consent of the local authorities, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the use of the overhead electrical trolley system of motive power is proposed, and the local authorities have consented thereto, now, therefore, it is

Ordered, that said application be and it is hereby approved, upon the following routes, to wit: Commencing at a point at the intersection of Remsen and Mohawk streets; and from thence into and along Remsen street to its intersection with White street; and from thence into and upon White street to its intersection with Main street; from thence into and along Main street to its intersection with Columbia street; and from thence into and along Columbia street to its intersection with Simmons avenue; and from thence into and along Simmons avenue to its intersection with Elm street; and from thence into and along Elm street to its intersection with Bowery street; and from thence into and along Bowery street to its intersection with Johnston avenue; and from thence into and along Johnston avenue to its intersection with Garner street; and from

thence into and along Garner street and upon and along the viaduct crossing the switch tracks of the New York Central and Hudson River Railroad Company to Division street; thence into and along Division street to its intersection with Reservoir street; thence into and along Reservoir street and into and along the lands of Egbert W. Lansing, which are to be dedicated for street purposes, to North Reservoir street; and thence along North Reservoir street to Manor avenue; and thence upon and along Manor avenue and its continuation to Mohawk street; thence into and along Mohawk street to its place of beginning; also, commencing at a point in the tracks of said company at the intersection of Columbia and Main streets; and thence into and along Main street to Saratoga street; and thence into and along Saratoga street to its point of intersection with the southern boundary line of the city of Cohoes; also, commencing at a point at the intersection of North Reservoir street and Manor avenue; and thence into and upon and along Manor avenue to its intersection with the western boundary line of the city of Cohoes; also commencing at a point at the intersection of Manor avenue and Mohawk street; and from thence into and along Mohawk street to its point of intersection with the northern boundary line of the city of Cohoes; also, commencing at a point in the tracks of the Cohoes City Railway Company as laid at the intersection of Main and White streets; and thence into and along White street to its intersection with Sandusky street; thence into and along Sandusky street to its intersection with High street; and thence into and along High street to its intersection with and thence southerly along the lands of the New York Central and Hudson River Railroad Company to Younglove avenue; and thence into and along Younglove avenue to Broadway street; and thence into and along Broadway street to Johnston avenue, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard rail or device to be of such a nature that it may be transferred from one side to the other.

XV.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO AND NIAGARA FALLS ELECTRIC RAILWAY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE OPERATION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER.

July 16, 1895.

Application by the Buffalo and Niagara Falls Electric Railway having been duly made to this Board on or about June 18, 1895, for the approval of the Board of the operation of its railroad by the overhead electrical trolley system, and a hearing having been had on said application on Tuesday, July 16, 1895, W. C. Ely appearing for the application, and no one in opposition thereto; now, after hearing W. C. Ely for said application, and after filing due proof of publication of notice of hearing before this Board, and after reading and filing the affidavits of John C. Pearce, W. C. Ely, Jacob Luick, Sr., and James Z. Roberts, and due proof of the consent of the local authorities, and it appearing therefrom that the owners of more than one-half in value of the property bounded on that portion of the railroad with respect to which the use of the overhead electrical trolley system of motive power is proposed, and the local authorities, have consented thereto; now, therefore, it is

Ordered, that said application be and it is hereby approved upon the following routes, to wit: From a point in the easterly line of the city of Niagara Falls where the same intersects the river road; thence along said river road in the town of Niagara and in the town of Wheatfield and across a small strip of private property in the village of La Salle to a point in said river road in the town of Wheatfield where the same intersects the east line of lot 68 of the New York State Mile Reservation, so called; running thence southeasterly along the said river road or main street in the village of North Tonawanda to a point where the same intersects Boston avenue, recently laid out; thence along Boston avenue to Warner avenue, so called; thence along Warner avenue to Paynes avenue; thence southerly along Paynes avenue to Sweeney street; thence westerly along Sweeney street to Main street; thence upon Main street and the State bridge over the Tonawanda Creek to the southerly line of the village of North Tonawanda, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision

is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard rail or device to be of such a nature that it may be transferred from one side to the other.

XVI.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO AND NIAGARA FALLS ELECTRIC RAILWAY FOR A MODIFICATION OF THE ORDER OF THIS BOARD, DATED MAY 1, 1893, AND FOR A MODIFICATION OF THE ORDER OF THIS BOARD, DATED JULY 16TH, 1895.

August 6, 1895.

Application by the Buffalo and Niagara Falls Electric Railway, having been duly made to this Board on or about August 6th, 1895, for a modification of certain conditions in the order of this Board, dated May 1, 1893, approving of the operation of the Buffalo and Tonawanda Electric Railway by the overhead electrical trolley system, and for a modification of the third condition in the order of this Board, dated July 16th, 1895, approving of the operation of the Buffalo and Niagara Falls Electric Railway by the overhead electrical trolley system, and it appearing that the Buffalo and Tonawanda Electric Railway has been duly consolidated with and now forms a part of the Buffalo and Niagara Falls Electric Railway, and it appearing from the affidavits of W. Caryl Ely and James G. White that the motor cars to be operated by the said Buffalo and Niagara Falls Electric Railway will be equipped with air brakes and with safety fenders; now, therefore, on motion of W. Caryl Ely, counsel, it is ordered:

First. That the third condition in the order to the Buffalo and Niagara Falls Electric Railway, dated July 16th, 1895, shall be and hereby is modified so that it shall read as follows:

"*Third.* No motor car shall be run with less than two men to operate "it; one motor car combined with one 'trailer' car may be run with "two men to operate the two combined cars, provided both of such cars "are equipped with air brakes."

Second. That the order of May 1, 1893, to the Buffalo and Tonawanda Electric Railway shall be, and hereby is, made to conform in all respects to the order to the Buffalo and Niagara Falls Electric Railway, dated July 16th, 1895, as now modified.

Third. Guard wires shall be constructed over the trolley wires within the limits of any city or village on the route of the Buffalo and Niagara Falls Electric Railway.

XVII.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO, GARDENVILLE AND EBENEZER RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF THE OPERATION OF ITS RAILROAD BY THE OVERHEAD ELECTRICAL TROLLEY SYSTEM OF MOTIVE POWER.

October 1, 1895.

Application by the Buffalo, Gardenville and Ebenezer Railway Company having been duly made to this Board on or about September 9th, 1895, for the approval of the Board of the operation of its railroad by the overhead electrical trolley system, and a hearing having been had on said application on Tuesday, October 1st, 1895, Messrs. Hodson & Webster, counsel, appearing for the application, and no one in opposition thereto; now, after filing due proof of publication of notice of hearing before this Board, and after reading and filing the affidavit of John A. Witzig, and due proof of the consent of the local authorities, and it appearing therefrom that the owners of more than two-thirds in value of the property bounded on that portion of the railroad with respect to which the use of the overhead electrical trolley system of motive power is proposed, and the local authorities, have consented thereto, now, therefore, it is ordered, that said application be, and it is hereby approved, upon the following routes, to wit: Commencing at a point on Marjorie street, so called, otherwise known as Burch avenue, at or near its intersection with Seneca street, which point of intersection is near the boundary line between the city of Buffalo and the town of West Seneca; running thence northerly along and upon said Marjorie street, or Burch avenue, so called, and Macedon street, so called, to the intersection of said Marjorie street, or Macedon street with the highway known as the Indian Church Road, otherwise known as Winchester avenue; thence along and upon the said highway known as the Indian Church road, otherwise known as Winchester avenue, and some part thereof being called the Mineral Spring Road, in an easterly direction to the intersection of said highway with the highway known as the Union Road or Union avenue in the village of Gardenville and thence in a southerly direction along and upon the said highway known as the Union road or Union avenue to the point of intersection thereof with the Aurora Plank road, so called, in the village of Ebenezer, with the following conditions, which are hereby made a part of this order:

First. This application is granted and accepted subject to the lawful regulations of the local authorities, and subject to such further regulation, as to speed or otherwise, by this Board, as may hereafter seem fit and proper.

Second. The poles from which the wires are to be suspended shall be of such a construction and height as to conform to the requirements of the local authorities.

Third. No car shall be run with less than two men to operate it.

Fourth. The company shall take all reasonable and proper means to prevent the currents from its wires, through leakage, induction or otherwise, from interfering with the currents upon the wires of other companies, whether telegraph, telephone or other wires; but this provision is not intended to require that the said company shall construct a double circuit.

Fifth. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary) shall be allowed to ride on the platform with the motorman on any electric car.

Sixth. On all open cars there shall be attached a guard rail or device on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this guard rail or device to be of such a nature that it may be transferred from one side to the other.

APPLICATIONS

FOR

INCREASE OF CAPITAL STOCK.

I.

IN THE MATTER OF THE APPLICATION OF THE UTICA BELT LINE STREET RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM $150,000 TO $300,000.

July 24, 1894.

Application having been made to the Board of Railroad Commissioners by the Utica Belt Line Street Railroad Company for the approval of the Board of an increase of the capital stock of said company from $150,000 to $300,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with a copy of the plan of reorganization of the company, showing the purpose to which the proposed increase is to be applied therefore, it is

Ordered, that the increase of the capital stock of the Utica Belt Line Street Railroad Company from $150,000 to $300,000 be, and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

II.

IN THE MATTER OF THE APPLICATION OF THE KINGS COUNTY ELEVATED RAILWAY COMPANY FOR AN INCREASE OF CAPITAL STOCK FROM $3,250,000 TO $4,750,000.

November 12, 1894.

Application having been made to the Board of Railroad Commissioners by the Kings County Elevated Railway Company for the approval of the Board of an increase of its capital stock from $3,250,000 to $4,750,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, and it appearing that the proposed increase is to be exchanged for the stock of the Fulton Elevated Railway Company, therefore, it is

Ordered, that the increase of the capital stock of the Kings County Elevated Railway Company from $3,250,000 to $4,750,000 be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

III.

IN THE MATTER OF THE APPLICATION OF THE THIRD AVENUE RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM $7,000,000 TO $9,000,000.

January 7, 1895.

Application having been made to the Board of Railroad Commissioners by the Third Avenue Railroad Company for the approval of the Board of an increase of the capital stock of said company from $7,000,000 to $9,000,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavit of Albert J. Elias, as to the purposes to which the proposed increase is to be applied, therefore it is

Ordered, that the increase of the capital stock of the Third Avenue Railroad Company from $7,000,000 to $9,000,000 be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

IV.

IN THE MATTER OF THE APPLICATION OF THE SYRACUSE EAST SIDE RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM $200,000 TO $250,000.

February 12, 1895.

Application having been made to the Board of Railroad Commissioners by the Syracuse East Side Railway Company for the approval of the Board of an increase of the capital stock of said company from $200,000 to $250,000, *nunc pro tunc* November 21, 1894, and it appearing from the papers filed with the Board that such increase is a proper one, therefore, it is

Ordered, that the approval of the Board be granted of an increase of the capital stock of the Syracuse East Side Railway Company from $200,000 to $250,000, *nunc pro tunc* November 21, 1894, and that such approval be endorsed on the certificates of the stockholders' meeting, as required by the Stock Corporation Law.

V.

IN THE MATTER OF THE APPLICATION OF THE PORT RICHMOND AND PROHIBITION PARK ELECTRIC RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM $100,000 TO $200,000.

March 5, 1895.

Application having been made to the Board of Railroad Commissioners by the Port Richmond and Prohibition Park Electric Railroad Company for the approval of the Board of an increase of the capital stock of the company from $100,000 to $200,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of Charles A. Starbuck, president of said company, and Cornelius G. Kolff, as to the purposes to which the proposed increase is to be applied, therefore, it is

Ordered, that the increase of the capital stock of the Port Richmond and Prohibition Park Electric Railroad Company from $100,000 to $200,000 be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

VI.

IN THE MATTER OF THE APPLICATION OF THE HERKIMER, MOHAWK, ILION AND FRANKFORT ELECTRIC RAILWAY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM $55,000 TO $150,000.

April 23, 1895.

Application having been made to the Board of Railroad Commissioners by the Herkimer, Mohawk, Ilion and Frankfort Electric Railway Company for the approval of the Board of an increase of the capital stock of said company from $55,000 to $150,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavit of R. T. McKeever, as to the purposes to which the proposed increase is to be applied, therefore, it is

Ordered, that the increase of the capital stock of the Herkimer, Mohawk, Ilion and Frankfort Electric Railway Company from $55,000 to $150,000 be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

VII.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO AND TONAWANDA ELECTRIC RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM $100,000 TO $250,000.

May 13, 1895.

Application having been made to the Board of Railroad Commissioners by the Buffalo and Tonawanda Electric Railway Company for the approval of the Board of an increase of the capital stock of said company from $100,000 to $250,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of W. Caryl Ely, Wallace C. Johnson and Oscar T. Crosby, as to the purposes to which the proposed increase is to be applied, therefore, it is

Ordered, that the increase of the capital stock of the Buffalo and Tonawanda Electric Railway Company from $100,000 to $250,000 be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

VIII.

IN THE MATTER OF THE APPLICATION OF THE NIAGARA FALLS AND LEWISTON RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM $100,000 TO $1,400,000.

June 4, 1895.

Application having been made to the Board of Railroad Commissioners by the Niagara Falls and Lewiston Railroad Company for the approval of the Board of an increase of the capital stock of said company from $100,000 to $1,400,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of R. W. Jones, Herbert P. Bissell and George A. Ricker, as to the purposes to which the proposed increase is to be applied, therefore, it is

Ordered, that the increase of the capital stock of the Niagara Falls and Lewiston Railroad Company from $100,000 to $1,400,000 be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

IX.

IN THE MATTER OF THE APPLICATION OF THE DUNKIRK AND FREDONIA RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM $75,000 TO $150,000.

June 18, 1895.

Application having been made to the Board of Railroad Commissioners by the Dunkirk and Fredonia Railroad Company for the approval of the Board of an increase of the capital stock of said company from $75,000 to $150,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of M. M. Fenner, Anthony W. Kusneske and David Maloney, as to the purposes to which the proposed increase is to be applied, therefore, it is

Ordered, that the increase of the capital stock of the Dunkirk and Fredonia Railroad Company from $75,000 to $150,000 be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

X.

IN THE MATTER OF THE APPLICATION OF THE OGDENSBURG STREET RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM $70,000 TO $150,000.

June 25, 1895.

Application having been made to the Board of Railroad Commissioners by the Ogdensburg Street Railway Company for the approval of the Board of an increase of the capital stock of the company from $70,000 to $150,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, together with the affidavits of Henry A. Sage and Stephen G. Gano, as to the purposes to which the proposed increase is to be applied, therefore, it is

Ordered, that the increase of the capital stock of the Ogdensburg Street Railway Company from $70,000 to $150,000 be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

XI.

IN THE MATTER OF THE APPLICATION OF THE ITHACA STREET RAILWAY COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM $250,000 TO $300,000.

July 9, 1895.

Application having been made to the Board of Railroad Commissioners by the Ithaca Street Railway Company for the approval of the Board of an increase of the capital stock of said company from $250,000 to $300,000, and certificates of the proceedings of the stockholders' meeting having been submitted to the Board, as required by the Stock Corporation Law, with proof of the publication of the notice of such meeting, it is

Ordered, that the increase of the capital stock of the Ithaca Street Railway Company from $250,000 to $300,000 be and the same is hereby approved, and that the endorsement of such approval shall be made upon the certificates of the stockholders' meeting, according to the provisions of the Stock Corporation Law.

XII.

IN THE MATTER OF THE APPLICATION OF THE SUSQUEHANNA VALLEY ELECTRIC TRACTION COMPANY FOR THE APPROVAL OF THE BOARD OF RAILROAD COMMISSIONERS OF AN INCREASE OF ITS CAPITAL STOCK FROM $20,000 TO $50,000.

September 9, 1895.

Application having been made to the Board of Railroad Commissioners by the Susquehanna Valley Electric Traction Company for the approval of the Board of an increase of the capital stock of said company from $20,000 to $50,000, *nunc pro tunc* September 27, 1894, and it appearing from the papers filed with the Board that such increase is a proper one, therefore, it is

Ordered, that the approval of the Board be granted of an increase of the capital stock of the Susquehanna Valley Electric Traction Company from $20,000 to $50,000, *nunc pro tunc* September 27, 1894, and that such approval be endorsed upon the certificates of the stockholders' meeting, as required by the Stock Corporation Law.

Applications for a Certificate under Section 59 of the Railroad Law.

I.

IN THE MATTER OF THE APPLICATION OF THE AMSTERDAM, JOHNSTOWN AND GLOVERSVILLE RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

November 20, 1894.

The application of the Amsterdam, Johnstown and Gloversville Railroad Company for a certificate under section 59 of the Railroad Law having been duly filed with the Board, August 13, 1894, together with the articles of association thereof, with proof of publication as required by law, and hearing on the same having been set down for September 4, at the office of the Board at Albany; now, after filing due proof of publication of the notice of such hearing, and after further hearing thereon, and after due consideration of the evidence taken and all proceedings had and taken therein, and after hearing Matthew Hale and others as counsel for said petitioners, and Hamilton Harris and others appearing in opposition thereto, and it not appearing to the Board that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as set forth on the maps and profiles filed therein,

Ordered, that the application of the Amsterdam, Johnstown and Gloversville Railroad Company for a certificate under section 59 of the Railroad Law be and the same is hereby denied.

MEMORANDUM FILED WITH ORDER IN THE ABOVE ENTITLED MATTER.

This application is made under section 59 of the Railroad Law.

The General Railroad Act of 1850 was passed at a time when it was the natural policy of the State to favor commercial freedom so as to stimulate every kind of enterprise. Under the operation of that law the business interests of the State were rapidly developed, and numbers of railroads were projected and constructed. At the time of the passage of section 59, in 1892, various incidents connected with railroad history had made it clear that the time had come for a change in State policy. In different reports from the time of its organization, and notably in that of 1885, to which reference is hereby made, this Board had set forth certain evils that had been inflicted upon existing enterprises and upon the

general community by the construction of unnecessary railroads. Such unnecessary railroads, after a brief period of unwholesome competition, had speedily gone into bankruptcy, and had finally become a burden upon the older projects and upon the general community.

It is believed by the Board that the statute of 1892 was intended to protect all interests belonging to the public which might be injuriously affected by ill-considered and unnecessary enterprises. The enactment of such a statute was urged upon the Legislature for a series of years by the Board in its annual reports. In determining the intent and meaning of the section, the recommendations of the Board to the Legislature and the facts which led the Board to make those recommendations must be considered.

In the pending application, the route of the proposed road runs from Akin, a small settlement about three miles west of the Amsterdam station on the New York Central, westerly for about three miles to Tribes Hill on a line substantially parallel with the line of the Central and lying a few hundred feet north of it. There are stations on the New York Central at both Akin and Tribes Hill. From Tribes Hill the proposed line runs northwesterly on a course gradually diverging from the line of the Central, passing at the most distant point within from two to two and one-half miles of the Fonda station of the Central, which station is some five miles west of the Tribes Hill station on the Central. The proposed line then turns northerly and runs to Johnstown, on a course in the immediate neighborhood of and parallel to the lines of the Cayadutta Electric Railroad and the Fonda, Johnstown and Gloversville Railroad, and, in fact, crossing these roads in several places. From Johnstown to Gloversville it follows practically a route already occupied by three existing railroads, viz.: the two just mentioned and the Johnstown, Gloversville and Kingsboro Horse Railroad. Considered as a whole, it offers a route from Akin to Gloversville of fourteen miles in length as against an existing route of about sixteen miles by the New York Central to Fonda, and from thence to Gloversville by the Cayadutta Electric road, and a second route of about twenty-one miles by the Central to Fonda, and the Fonda, Johnstown and Gloversville. Conceding that the new road may make a saving of a few miles, this saving is of no consequence, except for passenger traffic. The only manner in which the proposed road would reach the city of Amsterdam would be by a connection with an existing electric street railroad now running to Akin, which from Akin to Amsterdam parallels and is adjacent to the New York Central. The proposed road does not touch any community or inhabited region not now amply supplied with railroad facilities. The evidence is undisputed that the existing roads are abundantly able to transact all business now offered, or that is likely to be offered for many years to come. If the charges made for transacting such business are exorbitant, there is a better method of curing this evil than by inviting superfluous competition. Furthermore, if the existing roads between Fonda and Gloversville are making exorbitant charges, this fact may indicate that there is hardly business enough to support them upon reasonable charges, in which case there is obviously no occasion to build another road in a neighborhood already oversupplied.

The Board is of the opinion and finds that public convenience and necessity do not require the construction of said railroad.

DECISION OF THE GENERAL TERM.

An appeal was taken in the above case by the applicants for the certificate to the General Term, Third Department, and the following decision, sustaining the action of the Board, was handed down at the May Term of said Court:

Application by the Amsterdam, Johnstown and Gloversville Railroad Company to the General Term of the Supreme Court for the certificate provided by section 59 of chapter 676 of the Laws of 1892, upon a certified copy of all maps and papers on file in the office of the Board of Railroad Commissioners of the State of New York, in the matter of the application of said railroad company for such certificate, said Board of Railroad Commissioners having, by an order made at the capitol, in the city of Albany, on the 20th day of November, 1894, denied the application of said railroad company for such certificate.

Matthew Hale and Andrew J. Nellis for the petitioner.

Hamilton Harris and A. D. L. Baker, for property owners and others, in opposition.

Herrick, J.:

The Amsterdam, Johnstown and Gloversville Railroad Company was incorporated July 12, 1894, pursuant to chapter 565 of the Laws of 1890, and the laws amendatory thereof, for the purpose of constructing a steam railway between Amsterdam, Montgomery County, and Johnstown and Gloversville, Fulton County, a distance of about fourteen miles.

The company has paid to the State Treasurer the taxes upon the capital stock as required by statute.

Section 59 of chapter 676 of the Laws of 1892 provides that "No railroad corporation hereafter formed under the laws of this State shall exercise the powers conferred by law upon such corporations or begin the construction of its road until the directors shall cause a copy of the articles of association to be published in one or more newspapers in each county in which the road is proposed to be located, at least once a week for three successive weeks, and shall file satisfactory proof thereof with the Board of Railroad Commissioners, nor until the Board of Railroad Commissioners shall certify that the foregoing conditions have been complied with, and also that public convenience and necessity require the construction of said railroad as proposed in said articles of association. * * * After a refusal to grant such certificate, the Board shall certify a copy of all maps and papers on file in its office, and of the findings of the Board when so requested by the directors aforesaid. Such directors may thereupon present the same to a General Term of the Supreme Court of the department within which said road is proposed in whole or in part to be constructed, and said General Term shall have power, in its discretion, to order said Board, for reasons stated, to issue said certificate, and it shall be issued accordingly."

The corporation so formed complied with the necessary preliminary requirements of this statute, and made application to the Board of Railroad Commissioners for a certificate "that public convenience and necessity require the construction of said railroad."

The said Board of Railroad Commissioners, holding that it did not appear to the Board that "public convenience and necessity" required the construction of said road as proposed in said articles of association

"and as set forth on the maps and profiles filed," denied the application for such certificate.

Whereupon, the directors of said railroad corporation procured certified copies of all maps, papers and evidence presented on said application, and have presented the same to this court, and ask for an order to compel the Board of Railroad Commissioners to issue the certificate applied for.

In The Matter of the New Hamburgh Railroad (76 Hun, 76), where a similar application was made to the General Term of the Supreme Court, after stating the manner in which the application was brought before it under the statute, the court said: "This mode of proceeding, while it grants the court power to review the action of the commissioners, plainly indicates that the court is to treat the application as in the nature of a review of the decision of a subordinate tribunal, and not as it would an original application made to it in the first instance. The burden rests upon the petitioner to show affirmatively that the commissioners erred in their determination, and the commissioners should be credited with some technical knowledge which this court is not presumed to possess."

I concur with that view of the province of this court in these proceedings. Unless the court can see that the decision of the Board of Railroad Commissioners was founded upon erroneous legal principles, or that it proceeded contrary to the clear weight of evidence in arriving at its conclusion upon any question of fact, or that it has abused the discretion vested in it, and has arbitrarily refused to issue the necessary certificate, I do not think that the court should reverse its determination and compel it to issue a certificate.

The Railroad Commissioners are vested with the supervision of the railroads of the State; it is made their special and peculiar duty to investigate and inform themselves as to the condition of existing roads, and as to the needs of the various parts of the State for transportation facilities; and their opinion upon these matters, in regard to which a proper discharge of their official duty requires them to be specially informed, is entitled to respect and consideration.

Upon the hearing before the Railroad Commission oral testimony was given by witnesses sworn both on behalf of and in opposition to the application. Petitions signed by hundreds of the residents of Amsterdam, Gloversville and Johnstown were presented to, and filed with, such Board of Railroad Commissioners.

Some of the petitioners certify that public convenience and necessity require the construction of the proposed road, and others certify that public convenience and necessity do not require the construction of the proposed road.

The Board of Railroad Commissioners, in making its order denying the application, filed a memorandum, which, amongst other things, contains the following statement: "In the pending application the route of the proposed road runs from Akin, a small settlement about three miles west of the Amsterdam station on the New York Central, westerly for about three miles to Tribes Hill, on a line substantially parallel with the line of the Central and lying a few hundred feet north of it. There are stations on the New York Central at both Akin and Tribes Hill. From Tribes Hill the proposed line runs northwesterly on a course gradually diverging from the line of the Central, passing at the most distant point, within

from two to two and one-half miles of the Fonda station of the Central, which station is some five miles west of the Tribes Hill station on the Central. The proposed line then turns northerly and runs to Johnstown on a course in the immediate neighborhood of and parallel to the lines of the Cayadutta Electric Railroad and the Fonda, Johnstown and Gloversville Railroad, and, in fact, crossing these roads in several places.

"From Johnstown to Gloversville it follows practically a route already occupied by three existing railroads, viz., the two just mentioned and the Johnstown, Gloversville and Kingsboro Horse Railroad. Considered as a whole it offers a route from Akin to Gloversville of fourteen miles in length, as against an existing route of about sixteen miles by the New York Central to Fonda, and from thence to Gloversville by the Cayadutta Electric road; and a second route of about twenty-one miles by the Central to Fonda and the Fonda, Johnstown and Gloversville. Conceding that the new road may make a saving of a few miles, this saving is of no consequence except for passenger traffic. The only manner in which the proposed road would reach the city of Amsterdam would be by a connection with an existing electric street railroad now running to Akin, which from Akin to Amsterdam parallels and is adjacent to the New York Central. The proposed road does not touch any community or inhabited region not now amply supplied with railroad facilities. The evidence is undisputed that the existing roads are abundantly able to transact all business now offered, or that is likely to be offered for many years to come. If the charges made for transacting such business are exorbitant, there is a better method for curing this evil than by inviting superfluous competition. Furthermore, if the existing roads between Fonda and Gloversville are making exorbitant charges, this fact may indicate that there is hardly business enough to support them upon reasonable charges, in which case there is obviously no occasion to build another road in a neighborhood already oversupplied.

"The Board is of the opinion and finds that 'public convenience and necessity do not require the construction of said railroad.'"

The testimony offered and produced, not only oral, but that contained in the petitions filed, seems to have been confined almost entirely to expressions of opinion that "public convenience and necessity" require the construction of the road in question without giving any facts upon which such opinion is based, excepting the alleged fact that one of the present railroads, and the principal one, which the Board of Railroad Commissioners finds the proposed road will practically parallel, is making excessive charges for freight and passenger transportation.

Petitions presenting no facts, nor the evidence thereof, but simply expressing the opinions and desires of the petitioners, are not evidence, and cannot take the place of evidence. Local sentiment, aroused by the alleged misuse or abuse of an existing franchise, affords no sufficient reason for granting another franchise, upon the ground that public convenience and necessity require the construction of another road.

No evidence was given to show that the amount of passenger traffic or freight traffic is so great as to require an additional road for its accommodation; and I think the evidence before the Commissioners abundantly justifies their statement that "The evidence is undisputed that the existing roads are abundantly able to transact all business now offered, or that is likely to be offered for many years to come."

The privilege of constructing and operating a railroad is not one that exists in the incorporators as a common right; it is a privilege or franchise that is granted by the State; and can only be obtained by complying with the laws adopted by the State regulating the granting of such franchises.

Prior to the enactment of section 59 of chapter 676 of the Laws of 1892, it was within the power of fifteen or more citizens to form a railroad corporation, and to lay its tracks through any section, upon securing from the property owners the necessary right of way.

This section affected a change. It was evidently intended to restrict the building of roads not actually needed, in order to protect not only existing railroads, but also citizens from investing in alluring but profitless enterprises.

The propriety and necessity of constructing a road was not left to be determined by enterprising, but perhaps ill-informed or ill-advised citizens, or by those seeking by threats of destructive competition to levy tribute upon existing roads, but was placed in the hands of accredited officers of the State, who should act for, and in its behalf, in determining whether the interests of the State, or of the community immediately affected, would be promoted by the building of a road.

Provisions had theretofore been made, to be hereafter referred to, for the correction of abuses in the management of roads already constructed, so that it was no longer necessary to correct evils in the management of existing roads by constructing competing ones.

And before a new corporation can construct a road the corporation must secure from the Railroad Commissioners their certificate, "that public convenience and necessity require the construction of said railroad."

The corporation applying for such a certificate necessarily holds the affirmative upon that question; it devolves upon it to show that its construction is required by public convenience and necessity.

The certificate does not issue to it simply upon its filing its application, as a matter of right, unless evidence is produced before the Board to show that public convenience and necessity do not require its construction. It is not entitled to it as a matter of right in the event of no one appearing to oppose its application; nor if anyone does appear in opposition is he obliged to prove a negative and convince the Board that public convenience and necessity do not require the construction of the road.

The burden of proof is upon it to establish the performance by it of the requirements of the law and to establish the existence of that condition of affairs which will authorize the State authorities to grant a franchise, authorizing it to operate its road in the locality proposed.

It is applying for something from the State, and it must prove its claim to it under the laws the same as any person who attempts to establish any other claim or right.

So, also, in applying to this court the burden is upon the applicants to show to us affirmatively that the Railroad Commissioners have erred in their refusal to grant the necessary certificate.

Their determination as to whether they will grant a certificate of public convenience and necessity is necessarily and properly largely a matter of discretion, not an arbitrary discretion, but a discretion enlightened and guided by their experience in the affairs of railroads, the problems of transportation, the needs of the people, together with the special facts

brought before them in each particular case. To guide them, where it is claimed existing roads do not afford the necessary facilities, the commissioners may properly take into consideration the means that the law affords to regulate the management of railroad corporations and correct mismanagement and enforce the providing of proper service.

From an examination of the records in this case it seems to me that the Railroad Commissioners were abundantly justified in finding that it did not appear that "public convenience and necessity" require the construction of the said railroad "as proposed in said articles of association and as set forth on the maps and profiles filed," and that they have not abused their discretion, nor can I say that they erred in its exercise.

As I have before stated, the opinions of the witnesses sworn in behalf of the application, and the certificates of the petitioners, residents in Amsterdam, Gloversville and Johnstown, certifying that public convenience and necessity required the construction of the road, are almost entirely based upon the alleged exorbitant charges of the existing railroads, and their belief that rates of passenger and freight traffic will be lessened by the construction of the applicant's road.

In the memorandum of the Railroad Commissioners before referred to it is stated that if the existing roads are exorbitant in their charges "this fact may indicate that there is hardly business enough to support them upon reasonable charges, in which case there is obviously no occasion to build another road in a neighborhood already oversupplied."

But it is claimed that the principal company already in existence has recently declared a dividend of eight per cent., and has in addition a surplus in its treasury, and that those facts show that there is no necessity for charging the present rates.

Without inquiring into the truth of such claims nor for how long a time the existing company has been running and declaring dividends upon its stock, or whether the original investors have from the time of the commencement of their road down to the present time received reasonable returns for their investments, but for the purposes of this case, assuming that their charges are, under all the circumstances, unreasonable, I think that the Railroad Commissioners did not err in holding that that was not a sufficient reason for certifying that public convenience and necessity required the construction of the road.

Where there is no railroad in existence in a locality, or when the traffic is so great as not to be properly cared for by one road, or even where there is traffic sufficient to adequately support more than one road we may say that public convenience and necessity require the construction of another. But where, as in this case, it appears that "existing roads are abundantly able to transact all business now offered or that is likely to be offered for many years to come," I do not see how it can be said that public convenience and necessity require the construction of another.

The charging of exorbitant rates does not, in the present state of law, make a case for the building of another road.

Such charges may indicate either that there is insufficient business to support the roads with lesser charges or it may indicate bad management and a grasping disposition on the part of their operators.

There is no pretense that there is too much business for the capacity of the existing railroads, and the remedy for the present high charges, if they are unnecessarily high, is not by building an opposition road which

may cripple those already in existence and destroy the value of the investments in them or lead to the purchasing of the new road by the old companies, but, as indicated in the memorandum of the Railroad Commission, the remedy is to apply for a reduction of the rates.

It is provided by section 161 of chapter 565 of the Laws of 1890, that if, in the judgment of the Board of Railroad Commissioners, after a careful personal examination of the same, it shall appear "that any change of the rates of fare for transporting freight or passengers * * * is reasonable and expedient in order to promote the security, convenience and accommodation of the public, the Board shall give notice and information in writing to the corporation of the * * * changes which they deem to be proper, and shall give such corporation an opportunity for a full hearing thereof, and if the corporation refuses or neglects to make such * * * changes * * * the Board shall present the facts in the case to the Attorney-General for his consideration and action, and shall also report them in its annual or in a special report to the Legislature." Section 162, as amended by chapter 676 of the Laws of 1892, provides that a Special Term of the Supreme Court shall have power, "in its discretion in all cases of decisions and recommendations by the Board, which are just and reasonable, to compel compliance therewith by mandamus, subject to appeal to the General Term and the Court of Appeals, and upon such appeal the General Term and the Court of Appeals may review and reverse upon the facts as well as the law."

These provisions of the statute, together with others which I have not quoted, seem to me to afford a remedy for the alleged grievances against the existing roads.

If an application had been made to the Railroad Commissioners to compel a reduction of the rates, and it had been made clearly to appear that they were exorbitant, and notwithstanding that fact the Commissioners had refused to recommend the needed relief so that the only relief attainable was by building another road, the case would appear before us in a different aspect.

The court must assume, however, that the Railroad Commission will do its duty in the premises, and upon its being made to appear to it that the existing railroads are charging unnecessarily high rates for transportation, that it will recommend their reduction. And it must also be assumed that the Attorney-General will do his duty and present their recommendation to the court, in the event of the railroads refusing to comply with the recommendation of the Railroad Commission, and upon its being so presented, the court will endeavor to do its duty in the premises.

The only substantial reason, therefore, given for the opinion that public convenience and necessity require the construction of the applicant's road, being the alleged excessive charges of the existing railroads for freight and passenger transportation, and there being a remedy provided for that by existing laws, it seems to me that the Railroad Commissioners were correct in declining to issue the certificate in question, and that there is no reason either upon the facts or from their construction of the law, for reversing their determination and compelling them to issue the certificate.

The application, should, therefore, be denied, with the costs and disbursements in this court.

Putnam, J., concurred; Stover, J., not acting.

Application denied, with ten dollars costs and disbursements in this court.

II.

IN THE MATTER OF THE APPLICATION OF THE INTERNATIONAL AND OAK ORCHARD HARBOR RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

February 28, 1895.

On reading and filing the petition of the International and Oak Orchard Harbor Railroad Company, dated January 9, 1895, the affidavits of the directors of said company, the articles of association of said company and due proof of publication thereof, a map and profile showing the proposed route of said railroad, which said map and profile provide for all crossings of steam railroads above or below grade, and due proof of publication of the notice of hearing on said application before this Board, and after hearing Robert Avery and others for said application, no one appearing in opposition, and it appearing that the conditions of section 59 of the Railroad Law have been complied with, and that public convenience and necessity require the construction of said railroad as proposed in said articles of association, and as provided by said map and profile, it is

Ordered, that said application be and the same is hereby granted, and that the certificate authorized under section 59 of the Railroad Law issue, and it is hereby declared that the provisions of said section have been complied with, and that public convenience and necessity require the construction of said railroad as shown in said articles of association, and as shown on said map and profile.

III.

IN THE MATTER OF THE APPLICATION OF THE BATAVIA AND NORTHERN RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

February 28, 1895.

On reading and filing the petition of the Batavia and Northern Railroad Company, dated January 9, 1895, the affidavits of the directors of said company, the articles of association of said company and due proof of publication thereof, a map and profile showing the proposed route of said railroad, which said map and profile provide for all crossings of steam railroads above or below grade, and due proof of publication of the notice of hearing on said application before this Board, and after hearing Robert Avery and others for said application, no one appearing in opposition, and it appearing that the conditions of section 59 of the Railroad Law have been complied with and that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as provided by said map and profile, it is

Ordered, that said application be and the same is hereby granted, and that the certificate authorized under section 59 of the Railroad Law issue, and it is hereby declared that the provisions of said section have been complied with and that public convenience and necessity require the construction of said railroad as shown in said articles of association and as shown on said map and profile.

IV.

IN THE MATTER OF THE APPLICATION OF THE ROCHESTER AND SOUTHERN RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

June 4, 1895.

On reading and filing the petition of the Rochester and Southern Railroad Company, dated May 23, 1895, the articles of association of said company and due proof of publication thereof, a map showing the proposed route of said railroad, and due proof of publication of notice of hearing on said application before this Board, and after hearing Joseph W. Taylor, counsel for said application, no one appearing in opposition thereto, and after reading and filing affidavits in support thereof, and it appearing that the conditions of section 59 have been complied with and that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as shown on said map; it is

Ordered, that said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

V.

IN THE MATTER OF THE APPLICATION OF THE GLOVERSVILLE AND BROADALBIN RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

June 4, 1895.

On reading and filing the petition of Messrs. Baker & Burton, on behalf of the Gloversville and Broadalbin Railroad Company, dated May 2, 1895, the articles of association of said company and due proof of publication thereof, a map showing the proposed route of said railroad, and due proof of publication of notice of hearing on said application before this Board, and after hearing Frank Burton, counsel for said application, no one appearing in opposition thereto, and after hearing evidence in support thereof, and it appearing that the conditions of section 59 of the Railroad Law have been complied with, and that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as shown on said map, it is

Ordered, that said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that public convenience and necessity require the construction of said railroad, as proposed in said articles of association and as shown upon said map.

VI.

IN THE MATTER OF THE APPLICATION OF THE RACQUETTE RIVER RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

June 25, 1895.

On reading and filing the petition of the Racquette River Railroad Company, dated May 27, 1895, the articles of association of said company and due proof of publication thereof, a map showing the proposed route of said railroad, and due proof of publication of notice of hearing on said application before this Board, and after hearing Frank White, counsel for said application, no one appearing in opposition thereto, and after hearing evidence and reading and filing affidavits in support thereof, and it appearing that the conditions of section 59 of the Railroad Law have been complied with, and that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as shown on said map, it is

Ordered, that said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

VII.

IN THE MATTER OF THE APPLICATION OF THE DEPEW AND TONAWANDA RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

July 16, 1895.

On reading and filing the petition of the Depew and Tonawanda Railroad Company, dated July 1, 1895, the articles of association of said company and due proof of publication thereof, a map showing the proposed route of said railroad, and due proof of publication of notice of hearing on said application before this Board, and after hearing Wilson S. Bissell and Herbert P. Bissell, counsel for said application, no one appearing in opposition thereto, and after reading and filing affidavits in support thereof, and it appearing that the conditions of section 59 of the Railroad Law have been complied with, and that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as shown on said map, it is

Ordered, that said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

VIII.

IN THE MATTER OF THE APPLICATION OF THE UTICA AND HERKIMER STREET RAILWAY COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

August 6, 1895.

On reading and filing the petition of the Utica and Herkimer Street Railway Company, dated July 17, 1895, the articles of association of said company and due proof of publication thereof, a map showing the proposed route of said railroad, and due proof of publication of notice of hearing on said application before this Board, and after hearing George E. Dennison, counsel for said application, no one appearing in opposition thereto, and after hearing evidence and reading and filing affidavits in support thereof, and it appearing that the conditions of section 59, have been complied with, and that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as shown on said map, it is

Ordered, that said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with, and that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as shown upon said map.

This certificate is granted upon the express understanding that there will be an avoidance of all grade crossings of the main lines of steam railroads by the said the Utica and Herkimer Street Railway.

IX.

IN THE MATTER OF THE APPLICATIONS OF THE TERMINAL RAILWAY OF BUFFALO AND THE DEPEW AND SOUTHWESTERN RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

August 6, 1895.

Henry L. Sprague, counsel for Terminal Railway. Wilson S. and Herbert P. Bissell, counsel for Depew and Southwestern Railroad Company.

These applications were filed with this Board July 1st, 1895, and are made under section 59 of the Railroad Law, for a certificate that certain conditions therein imposed have been complied with, and that public convenience and necessity require the construction of the respective roads. The publication of the articles of incorporation of the two companies, required under that section, commenced and ended on the same day, and the publication of the notice of the hearing before this Board on each of the applications commenced and ended at the same time; the routes proposed by each of said companies are practically the same and run between points in the villages of Depew and Blasdell, Erie County, both being suburbs of the city of Buffalo, and each of said routes are the same in length, about ten miles. The object of the proposed lines is for

the transfer of freight, exclusively, between the tracks of the New York Central and Hudson River Railroad Company, or the Lehigh Valley Railroad Company, and those of the Lake Shore Railroad Company, including also the intervening tracks of various other companies, it being claimed that a saving of from five to six hours can be made on freight between the East and West if this proposed line is constructed.

Both applications having been presented on the same day, and the return day being the same, it was determined by the Board to hear both applications jointly. Evidence was given in behalf of both applicants, showing a saving of from five to six hours on freight between New York and Chicago, and fully establishing the fact that public convenience and necessity require the construction of a line between the two points. The Board was also entirely satisfied as to the good faith of the projectors of the two companies and their ability to build the roads and of their compliance with the conditions of section 59 of the Railroad Law. The only remaining question, therefore, to be determined, is that as to which of the two companies shall be granted the certificate. It was conceded, on the argument of counsel for both companies, and is apparent from the evidence in the case, that one line can perform all the service that will be required of it, for the present, at least, and that the granting of one application must necessarily mean the denial of the other.

The articles of incorporation of the Terminal Company were executed June 12, 1895; those of the Depew and Southwestern Company June 14, 1895. The Terminal Company filed its articles of incorporation in the Secretary of State's office June 17, 1895, and in the County Clerk's office of Erie County, together with a map of its proposed route, on the same day; the Depew and Southwestern Company filed its articles of incorporation in the Secretary of State's office June 15, 1895, but did not then file any map in the County Clerk's office. Counsel for the Depew and Southwestern Company claim a preference or a prior right to a certificate by reason of the fact that its articles of incorporation were filed first in the Secretary of State's office, and insist that such fact must control. They also allege that the construction of such a road has been contemplated by them for some six years, and that in 1892 a preliminary line was run and estimates obtained as to the cost of right of way and construction. Upon the other hand, counsel for the Terminal Company assert that the fact that its survey was being made was the cause of the filing of the Depew and Southwestern Company's articles of incorporation, and urge that because of the fact that its map was filed first in the County Clerk's office, and statutory notice to property owners along its proposed route was served first, that it is entitled to priority, and cite some decisions which they maintain sustain their position.

The Board does not think the question necessarily turns on either of these points. Both articles of incorporation were executed within forty-eight hours of each other; the Terminal Company's June 12, and the Depew and Southwestern Company's June 14; and both were also filed in the Secretary of State's office within forty-eight hours of each other; the Depew and Southwestern Company June 15, and the Terminal Company June 17. The right to at that time file a map of the proposed route in the County Clerk's office is not clear, and the Board is decidedly of the opinion that the service of the statutory notice upon property owners was within the prohibition contained in section 59 of the Railroad Law,

and that in view of that section the cases cited by counsel for the Terminal Company, in so far as they relate to any of those prohibited acts, do not apply. The right, however, "to cause such examinations and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route" is clear, and this the Terminal Company did at a point of time prior to the survey of the Depew and Southwestern Company, and if any preference is to be gained thereby the Terminal Company is entitled to it.

In determining the question as between these two applicants, the proposed method of construction as shown by the maps and profiles as filed with this Board, the avoidance or creation of additional grade crossings, the volume of business to be transacted and the lines that are to furnish the same, and the parties in interest, are all elements to be considered, in addition to those above referred to. An examination of the maps and plans of the respective companies shows that the Terminal Company crosses two steam roads and one electrical road at grade, and six steam roads either under or over; the Depew and Southwestern Company crosses five steam and two electrical roads at grade—in fact, all of its crossings are at grade. This Board's opposition to any increase in grade crossings is well known and has been for many years, and, though the Legislature has refused to pass remedial legislation conferring jurisdiction in the matter upon this Board, it has been the policy of the Board to oppose in every way within its power the construction of such crossings.

It was evident upon the hearing that the Depew and Southwestern Company represented the Lehigh Valley Company, and was projected and would be controlled by it or in its interest. It was also apparent from the statements of counsel, and from the evidence in the case, that the Terminal Company represented the New York Central and Hudson River Railroad Company, or would be controlled by it or in its interest. The Lehigh Valley Railroad Company is a Pennsylvania corporation, and it appears from the affidavit of James F. Schaperkotter, the general agent of that company, that a large majority of the capital stock of the proposed Depew and Southwestern Company has been subscribed for by residents of that State. The New York Central and Hudson River Railroad Company is a New York corporation, and the capital stock of the Terminal Company, as appears from the evidence and statements of counsel for that company, has been or will be subscribed by residents of the State of New York, and it may well be suggested, all other things being equal, that in a proceeding before a New York State Board, and as a matter of good State policy, residents of New York and New York capital should be favored as against non-residents and foreign capital. No evidence was offered on the part of the Depew and Southwestern Company as to the amount of business to be furnished to it by the Lehigh Valley Company and its connections. From the evidence submitted on behalf of the Terminal Company, it appears that the New York Central and Hudson River Railroad Company interchanged with its connections at East Buffalo, including both loaded and unloaded cars, 501,580 cars in the year 1893, and 448,467 cars in 1894, and that the first six months of 1895 show an increase over the corresponding time in 1894; that of the total number of cars interchanged by it in 1893, 335,473 were with the Lake Shore Company, being more than three-fifths, and that the interchange with other roads at that point for the year

1894 was as follows: With the Western New York and Pennsylvania Railroad, 54,811; with the Buffalo, Rochester and Pittsburg Railroad, 13,396; with the New York, Lake Erie and Western Railroad, 10,556; with the West Shore, 26,232; with the Buffalo Creek Railroad, 19,855; with the Lehigh Valley Railroad, 65. It further appears that the interchange of the Lake Shore Railroad with the New York Central Railroad at this point is between forty and fifty per cent. of its business there. The close relationship also of these two companies, and the directors and managers thereof, is a matter of public notoriety, and one of which this Board should take cognizance. It seems reasonable that companies that are so related, and that are to furnish the vast bulk of the business to be transacted by and over the proposed line, should desire to control, or have those friendly to their interests control, its management, and this Board believes that they should be permitted to do so.

After a careful examination of all the facts and after duly weighing the equities as between the two companies, and for the reasons hereinbefore stated, the Board is of the opinion that public convenience and necessity require the construction of the road as proposed in the articles of association of The Terminal Railway Company of Buffalo, and it, therefore, orders that a certificate issue to the effect that said company has caused its articles of association to be published in one or more newspapers in the county in which its road is proposed to be located at least once a week for three successive weeks and has filed satisfactory proof thereof with this Board, and that public convenience and necessity require the construction of said railroad as proposed in said articles of association.

For like reasons, and in view of the foregoing, the Board is of the opinion that public convenience and necessity do not require the construction of the proposed road of the Depew and Southwestern Railroad Company, and, therefore, orders that its application be denied.

By the Board, Commissioner Chapin dissenting.

MEMORANDUM OF COMMISSIONER CHAPIN.

On the 15th of June, 1895, the Southwestern Company, abovenamed, became a railroad corporation under the provisions of section 2 of the Railroad Law, it having upon that date, or prior thereto, executed, acknowledged and filed a certificate pursuant to law. With sufficient diligence and promptness it applied to this Board for a certificate that public convenience and necessity required the construction of its railroad. Without this certificate it was forbidden by section 59 to exercise the powers conferred by law upon said corporation or to begin the construction of its railroad. Upon the hearing it was fully established that public convenience and necessity required such a line. The good faith of the projectors, their ability to build, together with full proof of compliance with the conditions of section 59 were shown to the satisfaction of the Board. Technically, and as a matter of strict record, no objection was made to the granting of such a certificate. The Terminal Company did, however, appear before the Board upon the same day, making a like application. The Terminal Company was not in existence on the 15th of June.

Its application to this Board was in no respect prior or superior to that of the Southwestern Company. In my judgment the Southwestern Company, being of prior existence, and being before the Board at the same time with the Terminal Company, was entitled to a certificate. It had complied with all the essential preliminaries as heretofore established by the Board in similar applications. The Board has never refused a certificate to a company setting forth the same claims as those of the Southwestern Company. The denial of the application must rest upon an exercise of discretion different from any heretofore exercised, not necessary in this instance, and not warranted by the view heretofore taken of the purpose and spirit of section 59. Past reports and opinions of this Board and of the courts have stated the object of that section. It was intended to check railroad building where such construction was not required by any public convenience or necessity. Before its passage there had been flagrant instances of construction which in the end worked injury to many private interests without rendering any corresponding service. When the application of the Southwestern Company was heard it could not be, and was not contended that the construction of its road would in any way violate the letter or spirit of the law. The reasons assigned by the majority members of the Board for denying its application indicate a view of the Board's discretion with which I cannot coincide. My own view of the discretion of the Board is far from narrow. But, I believe, that whatever discretion the Board possesses must be exercised within lines indicated by the history of the passage of the statute, by its known purpose, and by the record of its judicial and official construction since it became law. None of these considerations justify the proposition that an applicant standing in the position of the Southwestern Company can be put one side by this Board because of the presence of another company superior in nothing required by law, or by the usage of this Board, and of later organization. The majority members of the Board state certain specific grounds for the view of the Board's discretion which they take in this case. One of these grounds is that the maps and plans of the Southwestern Company indicate a greater number of grade-crossings than are shown upon the maps and plans of the Terminal Company. As to this ground it may be said that the facts do not support the position taken by my associates. The statements made upon the hearing by Mr. Sprague and Mr. Schaperkotter are to the contrary. Mr. Schaperkotter says, among other things, speaking of the Southwestern Company's map, that "the main line would go overhead in each case," and again he says that it is the intent of the Southwestern Company to construct as the Commission may direct. This is clear and satisfactory. It is, moreover, within the law and usage governing such construction. Even if no such statement had been made, the maps and plans are not final. Section 59 gives the Board power before granting or refusing a certificate to permit errors, omissions or defects to be supplied or corrected. Aside from this provision of section 59, a railroad company has full power to modify its plans and maps if called upon to do so, and, finally, the crossing of one steam road by another is already regulated by law. The second ground is found in the statement that the Southwestern Company represents the Lehigh Valley, while the Terminal Company represents the New York Central. Just here I depart fundamentally from the method of reasoning employed by the majority. I do

not concede that it is necessary to deny either application or improper to grant both. The two applicants are either independent companies or they possess the representative character ascribed to them by the majority members. If they are independent companies, the Southwestern Company's application must be granted or every precedent heretofore created by the Board must be set aside. After granting it, the application for the Terminal Company can then be disposed of upon its merits. If, however, the appplicants are to be regarded as branches, or off-shoots of the Lehigh Valley and the New York Central Companies, respectively, the Southwestern Company's application still remains of such a character that it must be granted upon its merits. After granting it, the application of the Terminal Company should be granted also. Such a solution of the situation is in no way at variance with the policy creating the statute or which has been developed since its passage. The New York Central and Lehigh Valley Companies are powerful and wealthy corporations. Each of them might reasonably wish to construct and be able to support a ten-mile spur, or off-shoot, without reference to the business or projects of the other. Such a situation in no way resembles the reckless and destructive paralleling of important enterprises which led to the passage of the statute.

Doubtless the situation is made more difficult by the fact that the Terminal Company expressly disclaims the representative character put upon it by the majority members. This disclaimer creates embarassments, but they lie in the path of the majority members and not in mine. For, if the disclaimer is true, my associates are in error. If it is not true, they seem to be extending special consideration to an applicant whose representations they do not believe. Moreover, the record shows that the New York Central Company already possesses a belt-line of railroad similar to those here projected. (Affidavit of Wilson S. Bissell, etc.)

Neither can I fall in with the suggestion that it is good State policy for this Board to discriminate in favor of New York capital and against Pennsylvania capital. The Board is charged with no such duty. It is a duty belonging to the Legislature. It has been performed, and the statutes of the State protect public interests so far as such interests are believed to need protection, by enactments controlling the ownership of stock and non-resident representation in the governing boards of corporations. What has just been said applies to the consideration given by the majority members to the evidence submitted on behalf of the Terminal Company, showing the number of cars interchanged at East Buffalo by different roads. Moreover, any road doing business upon the route contemplated by these two applicants would be subject to the obligations of a common carrier.

To sum up: The Southwestern Company makes a case for a certificate, and is entitled to receive it. The simultaneous application of the Terminal Company in no way impairs the position of the Southwestern Company, whatever line of reasoning may be adopted. For if the two applicants are independent companies, the company of later organization cannot take away from the Southwestern Company the rights attaching to its standing before the Board. If the applicants are to be looked upon as spurs of important existing systems, the Terminal Company may properly receive a certificate, but not until after the application of the Southwestern Company has been granted.

For these reasons, it seems to me that the application of the Southwestern Company came before the Board in such a form that it could not be denied, and I am, therefore, of the opinion that a certificate should issue to the effect that the said company has caused its articles of association to be duly published, and has filed proper proof with this Board, and that public convenience and necessity require the construction of said road as proposed in said articles of association.

CERTIFICATE.

Before the Board of Railroad Commissioners of the State of New York, at thd Capitol, Albany, August 6th, 1895.

Present:

Com. SAMUEL A. BEARDSLEY,
Com. MICHAEL RICKARD,
Com. ALFRED C. CHAPIN.

IN THE MATTER OF THE APPLICATION OF THE TERMINAL RAILWAY OF BUFFALO FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

August 6, 1895.

The Board of Railroad Commissioners of the State of New York, pursuant to section 59 of the Railroad Law, hereby certifies that the Terminal Railway of Buffalo has caused its articles of association to be published in one or more newspapers in the County of Erie, the county in which its road is proposed to be located, at least once a week for three successive weeks and has filed satisfactory proof thereof with this Board; and said Board of Railroad Commissioners further certifies that public convenience and necessity require the construction of said railroad as proposed in said articles of association.

By the Board.

CHARLES R. DEFREEST,
Secretary.

An appeal was taken from the above decision of the Board denying the application of the Depew and Southwestern Railroad Company to the General Term, Fourth Department, and the case was argued in the city of Rochester at the October term of said court. Pending determination of the appeal, a motion was made for an injunction, *pendente lite*, by the Depew and Southwestern Company, restraining the Terminal Company from exercising any of its corporate rights. The motion was fully argued before Mr. Justice Green, and the following opinion was handed down by said Justice with the order denying plaintiff's motion for an injunction:

Motion by plaintiff for injunction restraining the defendant from proceeding with the acquisition of any land for its railroad purposes and from the construction of its railroad in whole or in part and from the exercise of any corporate powers conferred by law upon railroad corporations in the State of New York under the certificate already granted to defendant by the Board of Railroad Commissioners of the State of New

York, on the 6th day of August, 1895, until the further order of this court in the premises.

Bissell, Sicard, Bissell & Cary, for plaintiff.

McMillen, Gluck, Pooley & Depew, for defendant.

Green, J.

The articles of incorporation of the defendant were executed June 12, 1895; of the plaintiff, June 14, 1895. The articles of incorporation of plaintiff were filed June 15, 1895, and of the defendant, June 17, 1895. The application to the Railroad Commissioners under the statute was made by each company the same day. The publication of notices of incorporation of each company began and ended on the same day. The notice of hearing and the hearing before the Commissioners of the application of each company began and ended on the same day. Plaintiff argues that the Board has power only to decide whether public convenience and necessity require the construction of a railroad, and that the Board may determine that one railroad or no railroad was so required, and possibly that two were required, but that their powers were exhausted when they determined the question as to the extent of construction required by public convenience and necessity. Plaintiff further claims that where two railroads make application at the same time, the Board has no power or jurisdiction to determine which shall be entitled to construct the railroad found by the Board to be necessary and convenient to the public.

But the statute conferred the power to determine whether public convenience and necessity required "the construction of said railroad as proposed in said articles of association" of the Terminal Railway Company. That question they did determine and had the right and power to determine, and issued a certificate accordinly. No power or jurisdiction is in express terms conferred upon the courts to review that determination.

The Board had also the power to determine in their discretion (the whole subject being relegated by the legislature to the Board and the powers and functions of the legislature being delegated to it) that the public convenience and necessity did not require "the construction of said railroad as proposed in said articles of association" of the Depew and Southwestern Railroad Company, and to refuse a certificate subject to the right of appeal to the General Term. Because the latter company should also be granted a certificate—and if we assume that the General Term will so decide—it does not necessarily follow that this certificate so granted should or must be annulled. In any event there is no foundation for the institution of an independent suit in equity to restrain the Terminal Company from proceeding to exercise the legal right conferred upon it by the certificate until it shall be ascertained what the decision of the General Term may be upon plaintiff's application. Even if we undertake to anticipate what that decision shall be (that its effect may be to annul or to materially modify the grant to the Terminal Company), a suit in equity to restrain it from exercising a franchise or grant conferred upon it by a board exercising delegated legislative power would seem to be an unwarranted assumption of judicial functions or authority. The argument that this certificate was issued without jurisdiction seems wholly untenable. To admit the argument, the conclusion would follow that the certificate is null and void and confers no rights,

franchise or grant. The jurisdiction and powers vested by the statute in this Board to hear this application and to determine whether public convenience and necessity required this railroad as proposed in the articles of association, forbid any such conclusion or result. The Board having, therefore, plenary power and jurisdiction to determine these questions, and having determined them, their determination cannot be reversed by mandamus or injunction, even though the Board should be of opinion that their decision was erroneous and the certificate improvidently granted. Indeed, it is questionable whether the General Term has conferred upon it by implication or inferentially the jurisdiction to review this determination; however this may be, it by no means follows that a court of equity has jurisdiction in a suit for injunction to review and set aside the decision of the Board and to annul the franchise. This grant is equivalent to a franchise directly conferred by legislative act and is not subject to judicial review, assuming that the Board acted within its powers and jurisdiction except so far as the statute has authorized it.

No power is vested by the statute in the courts to review this determination; it is only where a certificate has been refused.

A suit in equity to restrain a corporation from exercising a public right or franchise until the determination of an appeal in another proceeding or action to which the defendant is not a party, until it shall be determined whether or not the plaintiff is entitled to a grant of a similar franchise, appears to be a novelty both in matters of law and procedure.

It is an elementary principle in equity jurisprudence that where the legal right is doubtful equity will not interfere by injunction, and especially so where application is made to enjoin the defendant until it is determined by another court, whether the decision by a board of public officers in refusing to give him or it a public grant or franchise was erroneous; in other words, until the other tribunal determines whether in the fair exercise of its discretion the plaintiff is entitled to receive such grant. Until such determination is made the plaintiff can have no standing in a court of equity, for it possesses no legal right or color of right or title. Whether such legal right, authority, grant or franchise will ever be conferred upon the plaintiff is problematical—it all lies in uncertainty. Even if it be assumed that there are very reasonable grounds to believe that the General Term will exercise its discretion in favor of the plaintiff and will annul the judgment and discretion of the body upon whom the legislature has conferred the power, still the plaintiff possesses no legal or equitable right to maintain this action.

Let us suppose this action was ready for final hearing—what power, jurisdiction or authority would this court have or possess to render final judgment: *i. e.*, to determine that the decision of the Board was irregular or erroneous; to annul the certificate issued to defendant; or even to determine that the plaintiff is entitled to a certificate? This court is not vested with any such power; it has no jurisdiction whatever to decide these questions or to render final judgment. In other words, the plaintiff does not show that he is entitled to final judgment if the action were tried to-day; but the contrary.

The power to determine whether plaintiff is entitled to receive a grant is vested by the statute in the General Term. That being so, what right has this court to act upon the assumption that the plaintiff should or ought to have a grant—that perhaps it will get one from the General

Term; to anticipate what the judgment of the General Term will be? Where the right of the plaintiff to receive a legal title or interest depends upon the exercise of the judgment or discretion of another tribunal, upon what principle or rule of equity jurisprudence or procedure may this court restrain a defendant possessing the evidence of a legal title from acting in pursuance of it.

Another thing: the statute gives the plaintiff a legal remedy to recover or receive a public privilege, grant or franchise.

Since it has not received it, and perhaps it may not—for it depends upon the discretion of the General Term—the plaintiff can possess no legal or equitable right, title or interest in the subject-matter of this suit, and therefore has no standing in a court of equity, and especially as against a defendant possessing the legal evidence of a valid grant. That the plaintiff has no legal or equitable rights in the subject-matter of this suit is emphasized by the provision of the statute prohibiting it from exercising the powers conferred by law until a certificate is issued. Until that is obtained it has no right, power or authority whatever to construct a road, and consequently no standing in this court to restrain another corporation from proceeding to construct its road in pursuance of an apparently legal grant conferred upon it.

If it be contended that if the General Term directs a certificate to be issued to the plaintiff, then this court may proceed to final judgment in this action, the answer is: That if the General Term should not also decide that it possesses the power—by implication—to annul the grant to defendant and directs judgment accordingly, then this court would have no power to order final judgment, for if the jurisdiction vested in the General Term to review the decision of the Board refusing a certificate does not also embrace that part of the decision granting a certificate to the defendant, it must follow that this court cannot assume such power of review. If the power to review and annul is not vested in the General Term it cannot exist in any other judicial tribunal; for if that determination cannot be reviewed by direct appeal, surely it cannot be attacked in a collateral action or proceeding. Where a tribunal is vested with certain powers requiring the exercise of judgment and discretion and keeps within the bounds of its jurisdiction and authority, errors of law or fact involved in their determination are not the subject of review in a collateral proceeding or action. The court cannot substitute its own judgment and discretion for that conferred upon the Board. Consequently, even though the General Term directs the issuing of a certificate to the plaintiff, it does not follow that plaintiff will be entitled to a permanent injunction.

But it may be argued that if the General Term should annul the grant to defendant, then this court may award a final injunction. In regard to that it may be observed that in such event this court will merely follow the decision of the General Term and award a final injunction; but it possesses no inherent power to decide the question itself. Indeed it is not vested with any jurisdiction to determine whether a certificate should have been awarded to either party or to both; whether both or either, the one or the other is entitled as a matter of law to the grant. The legislature has not seen fit to confer any authority upon this court to determine whether the judgment or discretion of the Board was erroneously exercised in granting or refusing a certificate, and how or why or

in what respect or for what reason? Since, therefore, no such power is vested in this court to determine the supposed rights of the plaintiff or to annul the defendant's grant, for what purpose was this action brought, and upon what real ground is it based? Evidently the only ground upon which it may be maintained, if at all, is to restrain the defendant from proceeding under a valid grant until it shall be determined by the General Term whether in its judgment the plaintiff is also entitled to receive a similar grant. In other words, the purpose is simply to obtain by means of an equitable action for injunction a stay of proceedings by the defendant under the certificate issued by the Board until the determination of plaintiff's appeal from the decision of the Board of Commissioners. Conceding that such an action for such a purpose may in some cases be maintained, this surely is not one of those cases.

An insurmountable objection is that the plaintiff shows no right title or interest, legal or equitable, in the subject-matter of this action to which or in which the defendant possesses a legal title and interest by virtue of a public grant derived from the sovereign power; and it being a matter of grave doubt whether the decision of the General Term, even if it directs the issuing of a certificate to plaintiff, will entitle it to a final injunction, it would be inconsistent with elementary rules of equity practice to grant an injunction *pendente lite*.

To borrow a quotation from plaintiff's own brief, "the court will not shut its eyes to the question of the probability of plaintiff ultimately establishing its demand, nor will it by injunction disturb the defendant in the exercise of a legal right without a probability that plaintiff may finally maintain its right as against that of defendant."

High, on Injunction, Section 5.

A clear legal and equitable right to the relief demanded must be shown, and that the act complained of is illegal.

People vs. Canal Board, 55 N. Y., 390.

Plaintiff claims that because it filed its articles of incorporation two days before defendant's was filed, it thereby acquired a vested right in and to the certificate, although defendant's articles were executed two days prior to plaintiff's. In other words, it "claims title and a vested right to the privileges which the defendant seeks to exercise." This claim is wholly without foundation or reason in the law to support it. There is nothing in the statute to warrant such a contention. The plaintiff does not and cannot produce any authority for its claim either from the statute or the principles of the common law. Its right to a certificate depends upon the favorable exercise by the Board or the General Term of their judgment and discretion.

The right cannot be vested until the Board or that court sees fit to grant it. It is not even an inchoate right or title to the privileges or franchises it claims. The power to grant or refuse a franchise is vested in the Board and its proper exercise depends upon a great variety of considerations, many of which cannot well appear in the record.

Priority in organization is not a controlling circumstance, though it may be taken into consideration, but it confers no rights. In this particular case the circumstance appears to be an unimportant matter, and should be entitled to but little consideration.

The applications to the Board for a certificate were made at or about the same time; the publication of notices of incorporation, the notice of

hearing and the hearing itself were began and ended the same day. Why, therefore, should priority in incorporation be entitled to any weight in the determination of the Board? It is not the filing of the articles of association that absolutely determine which company should have certificate; that circumstance can give no preference. Besides, the defendant's articles were first executed and filed promptly. Because the plaintiff made the first request on the Board it does not follow that it is entitled to a certificate as a matter of law or right. Some of the considerations that should govern the Board in their determination whether to grant or refuse a certificate in a particular case are stated in Amsterdam, &c., R. Co, 86 Hun, 578. The privilege of constructing and operating a railroad is not a matter of common right; it is a privilege or franchise granted by the State. (Ib.) Corporations derive their franchises from the legislature, not from the commissioners, who simply perform administrative acts in carrying the law into effect and applying it.

70 N. Y., 327-329.

If the filing of the articles of association give a right to the certificate, then the Board will be a useless body. Of course, this position cannot be maintained. But the plaintiff contends that when it offers its proofs to the Board as to the public convenience and necessity of a railroad between Blasdell and Depew, and the Board determines the existence of such necessity or convenience, then it must award the certificate. If the plaintiff was the only applicant for the franchise, could the Board be compelled by mandamus to issue the certificate? Would it not have the power to reconsider its determination? But, says the plaintiff's counsel, if there are two applicants, the certificate must be awarded to the plaintiff if it should be issued at all. Why? Because it was organized two days before the other corporation. But there is nothing in the statute giving this right, and yet the plaintiff founds its claim on the statute. Is there any substantial reason in this case why plaintiff should be entitled to the preference? Large discretionary powers are conferred upon the Board in granting or refusing a certificate to either the one or the other subject only to review of the General Term in case of refusal. Though we may conclude and believe that plaintiff should also have a certificate, we cannot hold that the Board exceeded its powers and jurisdiction in awarding the certificate to defendant. That was a matter within their scope and authority, and even though this court should be of the opinion that the plaintiff is entitled to the certificate issued to the defendant, it does not follow that the plaintiff is entitled to an injunction; for at the most the determination of the Board in granting the certificate to the defendant instead of to the plaintiff, was but an error of law or error of judgment or irregular proceeding, which can only be reviewed in a direct proceeding taken for that purpose; that determination cannot be attacked in a collateral action.

Tugwell vs. Eagle Pass Ferry Co., 74 Texas, 489–491–492--493.

Haynes vs. Wells, 26 Ark., 464.

Lindsey vs. Lindsey, 20 Ark., 573.

It does not go to the jurisdiction of the Board, for there is no provision of the statute from which it could even be implied that in such a case as this the certificate must be awarded to the corporation first organized. In the judgment of the Board they had the power to grant it to either one or the other. If they were in error in this regard it was an error of law committed within its jurisdiction and the scope of its

authority. To say that in making this determination they transcended their authority and exceeded their powers and jurisdiction seems preposterous, for it was a matter they were called upon to decide in the regular course of the proceedings. How can the court hold that this was an error affecting the jurisdiction when it requires much argument and quotation from the text-books and the reports to establish the error alleged? Is it not a matter of grave doubt whether any judicial tribunal is vested with the power to annul the grant? This "error," if error it be, can only be reviewed and corrected—if at all—by the General Term. This court has no inherent power either to award a certificate to the plaintiff or to annul that issued to defendant. There is, therefore, nothing in plaintiff's argument that defendant should be restrained "from exercising privileges illegally and improperly sought to be conferred by the unauthorized and unwarranted action of a public body attempting to exercise powers clearly in excess of the plain letter and spirit of the statute."

Nor is there anything in the argument that the judgment of a court or public Board which is in excess or lies beyond their general jurisdiction may be collaterally attacked. The Board here had jurisdiction of the subject-matter and of the parties, though their decision may have been erroneous.

Nor is the rule applicable here that a defendant may be enjoined from doing any act in violation of the rights of the plaintiff respecting the subject-matter and tending to render the final judgment ineffectual. The plaintiff has no rights, either legal or equitable, nor any interest in the subject-matter, and it remains for the future to disclose whether or not it will ever possess any. Its rights all lie in hope and expectation.

For these reasons the authorities quoted for the granting of injunctions to restrain the commission of irreparable injuries, and to prevent multiplicity of actions, have no application or relevancy to the circumstances of this case. This case is *sui generis*, and differs materially from any case in which those doctrines of equity have been invoked and applied; the only rights (?) the plaintiff has is the expectation of receiving a public privilege or franchise, the granting of which rests in the discretion of the General Term, and which may not necessarily effect the legal rights of the defendant. It is clear, therefore, that the complaint sets forth no cause of action.

The plaintiff asks this court to enjoin a corporation duly clothed by the State with the right to exercise its powers, in favor of a corporation forbidden to exercise its powers; to temporarily enjoin the defendant until the General Term in the exercise of its discretion permits the plaintiff to exercise its corporate powers; that is, that this court declare in advance, not what the General Term ought to do, but what it will surely do, viz.: grant the plaintiff a certificate.

This court is asked to restrain a corporation to whom a certificate has been granted by the State in favor of one to whom a certificate has been refused; that is to say, this court is asked to annul a franchise granted by a Board directly created by the legislature to grant it in favor of one to whom no similar franchise has been granted. In other words, this is an attempt in a collateral action to annul the defendant's charter, the certificate being in legal effect a charter granting corporate franchises. Those franchises are derived from the State legislature, and not from the commissioners.

70 N. Y., 327-329.

Consequently the action to annul should be brought by the State.

54 How., 170; 44 Barb., 244.

In this case exception is taken to the decision of a special statutory Board, clothed with special statutory powers, conferring upon defendant certain statutory rights and refusing to plaintiff certain statutory privileges. Such Board has a broad discretionary power to grant or refuse the special statutory rights desired by each. Under such circumstances there is no field for the interposition of a court of equity.

This court has no power to pass upon the reasons given for issuing the certificate to defendant and refusing it to plaintiff. The Board is not required to give any reasons, but it is a very proper course to pursue.

It is not within our power or jurisdiction to review the action of the Board, even if we thought its reasons improper or insufficient.

People vs. Ulster & Del. R. Co., 58 Hun, 266, 182, N. Y. 240.

The Board has acted upon the applications and issued its certificate to defendant, and defendant has entered into the possession of the privilege granted by virtue of such decision and certificate.

Where a party is in the actual possession of an exclusive privilege under claim and color of title, an injunction will not be granted to restrain him from the exercise of his privilege, especially in favor of a party who sets up no particular right of his own.

Lansing vs. North River S. Co., 7 Johns. Ch. 163.

It is a well established rule governing courts of equity in the matter of granting relief that the complainant must at the time of his application be in the possession and full exercise of the franchises for which he seeks protection; nor will the court interfere for the protection of a franchise to which a good title from the State cannot be shown.

See 1 Spelling's Extra Remedies, Secs. 775, 776, 781, 782, 784, 786, 787 and 788, citing Enfield Toll Br. Co. vs. Conn. R. Co., 7 Conn. 28, 54, where the court says:

"It would be an unwarranted exercise of power in the Court of Chancery under these circumstances to grant an injunction. The plaintiffs are not in the exercise and enjoyment of any right which the defendants are attempting to infringe. If they have a strict legal right, let them establish it in a court of law."

See, also, Secs. 789, 790, 791, 792, 796, 801, 1 Spelling's Extra Remedies.

There are other decisions bearing upon this question which might be profitably discussed, but sufficient has been shown to indicate that in our own opinion this motion must be denied.

X.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO, GARDENVILLE AND EBENEZER RAILWAY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

September 9, 1895.

On reading and filing the petition of the Buffalo, Gardenville and Ebenezer Railway, dated September 6, 1895, the articles of association

of said company, and due proof of publication thereof, a map showing the proposed route of said railroad, and due proof of publication of notice of hearing on said application before this Board, and after hearing D. P. Hodson, counsel for said application, and no one appearing in opposition thereto, and after reading and filing affidavits in support thereof, and it appearing that the provisions of section 59 have been complied with, and that public convenience and necessity require the construction of said railroad as proposed in said articles of association and as shown on said map, it is

Ordered, that said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with, and that public convenience and necessity required the construction of said railroad as proposed in said articles of association and as shown upon said map.

XI.

IN THE MATTER OF THE APPLICATION OF THE AUBURN INTER-URBAN ELECTRIC RAILROAD COMPANY FOR A CERTIFICATE UNDER SECTION 59 OF THE RAILROAD LAW.

September 10, 1895.

On reading and filing the petition of the Auburn Inter-Urban Electric Railroad Company, dated August 28, 1895, the articles of association of said company and due proof of publication thereof, and due proof of publication of notice of hearing before this Board, and after hearing John D. Teller, counsel for said application, and after reading and filing affidavits in support thereof, and it appearing that the conditions of section 59 have been complied with, and that public convenience and necessity require the construction of said railroad as proposed in said articles of association, it is

Ordered, that said application be and the same is hereby granted, and the Board of Railroad Commissioners hereby certifies, in accordance with section 59 of the Railroad Law, that the conditions of said section have been complied with and that public convenience and necessity require the construction of said railroad as proposed in said articles of association.

But the foregoing determination shall in no wise be considered as and for the written consent of the State Railroad Commissioners of the State of New York necessary under section 2 of chapter 239 of the Laws of 1893.

Application for Exemption under the Provisions of Chapter 543 of the Laws of 1893.

POWER BRAKE ACT.

I.

IN THE MATTER OF THE APPLICATION OF THE NIAGARA JUNCTION RAILWAY COMPANY FOR EXEMPTION UNDER THE PROVISIONS OF CHAPTER 543 OF THE LAWS OF 1893.

August 6, 1895.

Application by the Niagara Junction Railway Company for an extension of time within which to equip ten per cent. of all freight cars owned or operated by said company with continuous power or air brakes, having been made to this Board on or about July 23, 1895; upon reading and filing the affidavit of Edmund S. Wheeler, superintendent of said railroad, and it appearing therefrom that the public interests would not suffer from the granting of this application, it is

Ordered, that said application be granted, and the Niagara Junction Railway Company is hereby exempted from those provisions of section 2, of chapter 543, of the Laws of 1893, requiring the equipment of ten per cent. of all freight cars owned or operated by it, with continuous power or air brakes, for each of the years 1893, 1894 and 1895.

Applications for Approval of Cooking Stoves in Dining Cars under Section 51 of the Railroad Law.

I.

IN THE MATTER OF THE APPLICATION OF THE UNITED STATES COMMISSION OF FISH AND FISHERIES, FOR APPROVAL OF A COOKING RANGE.

May 2, 1895.

On April 25, 1895, J. Frank Ellis, Superintendent Car and Messenger Service for the United States Commission of Fish and Fisheries, filed with the Board, a verified petition, asking for approval of a cooking range (cut of which was attached to the petition), to be used in car No. 4, belonging to the Commission. This Board approved the same, and on May 2 the following letter was sent Mr. Ellis:

ALBANY, *May* 2, 1895.

J. FRANK ELLIS, ESQ., *Superintendent Car and Messenger Service United States Commission of Fish and Fisheries, Washington, D. C.:*

DEAR SIR:—The application of the United States Commission of Fish and Fisheries for the approval of this Board of a cooking range to be used in car No. 4, belonging to the Commission, was laid before the Board at its meeting yesterday.

The Board hereby approves the style of range and fastenings described in your application, accompanied by a cut of the range, for use in car No. 4 of the United States Commission of Fish and Fisheries.

By the Board,

CHARLES R. DEFREEST,
Secretary.

II.

IN THE MATTER OF THE APPLICATION FOR PERMISSION TO USE AN OIL STOVE IN THE CAR "FLORIDA'S ROLLING EXPOSITION."

October 2, 1895.

This application was made to the Board by verified petition on September 27, 1895. The Board approved the same, and on October 2, the following letter was sent to the applicant:

ALBANY, *October* 2, 1895.

WANTON S. WEBB, ESQ., *care of Ben Stanley Webb, Tribune Building, New York City:*

DEAR SIR:—Your application for permission to use a stationary Pullman Car Patent Oil Stove for heating coffee, etc., in the buffet car "Florida's Rolling Exposition," was laid before the Board yesterday, and the Board grants the same.

So far as heating the car by Baker Heater is concerned, you will notice from a copy of the statute enclosed, that it is lawful to heat a car by a Baker Heater when the car is standing still, and as your car is equipped with steam pipes, so that steam may be used in heating when the car is in motion, this seems to cover it.

Very truly yours,

CHARLES R. DEFREEST,

Secretary.

INQUIRIES.

During the year a number of inquiries have been submitted to the Board, involving questions of importance, and often requiring much investigation. The more important of these are set forth as follows:

I.

Right of a Steam Road to Use Electricity.

WATERTOWN, N. Y., *January* 15, 1895.

The Secretary of the Board of Railroad Commissioners, Albany, N. Y.:

DEAR SIR.—Will you kindly inform me whether Railroad Corporations, formed under Article 1 of the Railroad Law, have the right to use electricity as a motive power, except as provided by section 21 of the article. In other words, whether electricity is included in section 7 of the article defining the force, or power, to be used in the word steam, or of animals, or by any mechanical power. My judgment is that such corporations, except as provided in Section 21, have not the right to use electricity as a motive power. But I can see no good reason for the restriction. I should also be pleased to learn your views for the restriction, if the restriction actually exists; that is to say, the reasons for the restriction. Hoping that you may be able, with little inconvenience to yourself, to favor me with an early reply, I am,

Yours truly,

J. A. McCONNELL.

REPLY.

ALBANY, *January* 30, 1895.

J. A. McCONNELL, *Watertown, N. Y.:*

DEAR SIR.—Your letter was laid before the Board at its meeting yesterday, and I am directed to state that the only time the question has come before it was in an application made by the Brooklyn, Bath and West End Railroad Company (then operating as a steam railroad) for the approval of the Board of a change to the trolley system, under section 100.

The Board held that section 100 only applied to street surface railways, and that the company could not make application under that section. Thereupon the Brooklyn, Bath and West End Company changed its motive power to the trolley system, claiming, as we understand, that it had the right to operate by that system under subdivision 7 of section 4 of the Railroad Law.

Very truly yours,

CHAS. R. DEFREEST,

Secretary.

II.

Condemnation of Property for Railroad Purposes.

AMAGANSETT, *January* 23, 1895.

To the Railroad Commissioners:

GENTLEMEN.—I own a fifty-five acre stock farm through which runs diagonally a four-rod right of way for the Long Island Railroad. This right of way cuts our lots into three-cornered pieces; also cuts our building off from the farm; also spoils the sale of our best building lots on our front, besides damaging our business to a very great extent. For all this damage and loss we have received but a mere pittance for compensation.

Now the railroad company wants to go outside of the lines of this right of way and condemn the farm, then turn a natural watercourse upon us and flood our dooryards, orchards, cowyards and hogpens with water; and not only us, but flood our neighbors also.

First. Have the railroad company any lawful right to thus flood our premises, especially when it is entirely unnecessary, as they can build a crossing that will avoid this turning of water upon us? Please reply as soon as possible.

Second. Has the company the right to condemn the farm for this purpose? and

Third. Have we any redress from such action?

Yours respectfully,
M. B. HAND.

REPLY.

ALBANY, *January* 23, 1895.

M. B. HAND, ESQ., *Amagansett, L. I., N. Y.:*

MY DEAR SIR.—Railroad companies can take property for railroad purposes under condemnation proceedings. No railroad company has the right to take property, however, without the process of law and compensation to the owner. Any remedy that you may have lies in the courts, and you should consult a lawyer, in order to ascertain just what your rights in this particular case are.

Very truly yours,
CHAS. R. DEFREEST,
Secretary.

III.

The Hudson and St. Lawrence Railroad Company.

NEW YORK, *January* 31, 1895.

CHARLES R. DEFREEST, ESQ., *Secretary Railroad Commission, Albany, N. Y.:*

DEAR SIR.—I am very anxious to obtain some information which I have been informed you are in a position to supply. To be brief, I will

state that among the effects of a friend of mine, there has been a bond found with coupons intact, the last clause of which reads as follows:

The Hudson and St. Lawrence Railroad Company,

Incorporated 1872.

One of a series of two thousand first mortgage bonds. Issued by the Hudson and St. Lawrence Railroad Company, of New York. Amounting in the aggregate to $2,000,000, to secure which the said company have executed to me the undersigned, as trustee, a mortgage dated the first day of January A. D., 1873, and which is referred to in the above bond, and, further, that I have accepted the trust thus created.

Dated at the city of New York, first day of January, 1873.

WM. L. WOODWARD, *Trustee.*
ROBERT L. GREEN, *President.*
JOHN J. ROBERTS, *Secretary.*

No. 1664.

The bond is a twenty year one, and according to the above, fell due January 1, 1893.

Now, the point at issue is this, I cannot find this company registered in any of the railroad guides, and desire to know whether there is such a company in existence, and if not, can you give me any information as to what has become of it?

Respectfully yours,
FRANK P. O'RAW.

REPLY.

ALBANY, *February* 1, 1895.

FRANK P. O'RAW, ESQ., *New York City:*

DEAR SIR.—Replying to your favor relative to the Hudson and St. Lawrence Railroad Company, I would state, that according to the record the company was incorporated January 15, 1872, to run from Ballston to Ogdensburgh. Capital stock, $6,000,000. No effort was ever made to build the road and I do not think that anything was ever done in connection with the organization except to issue bonds. We have had several inquiries similar to this and have written a number of letters to the original directors, but have failed thus far to obtain any information except what is contained in the records relative to the organization of the company. I have been informed that the mortgage made was upon certain lands in Adirondack counties, which are not now and certainly were never worth the face of the mortgage, and if the company ever had any title to them it has long since lapsed. The Robert L. Green mentioned as president on the bond, was a resident of the city of Hudson at the time the company was incorporated. The James L. Thornton, another director, resided in Ogdensburgh. I am certain the bond has no value now.

Very truly yours,
CHARLES R. DEFREEST,
Secretary.

IV.

Alleged Discrimination in Fare.

ALBANY, *February* 19, 1895.

To the Honorable Board of Railroad Commissioners of the State of New York, Albany, N. Y.:

GENTLEMEN.—I am in receipt of a letter from a resident of Oneida County, in which he says: "The West Shore Railroad charges three cents per mile fare from Vernon to Utica. They claim that it is done to equalize the fare between Syracuse and Utica with the New York Central, as the distance by the West Shore is between seven and eight miles less. Now that Utica is our county seat, the people of this section have more or less business in that city, and it is an unjust discrimination against the citizens of this county, for the reason, besides, that only two cents per mile are charged to Oneida and Syracuse."

Will you have the kindness to inform me whether this extra charge is contrary to law, and, if so, what it would be necessary for my correspondent to do in order to have the matter righted?

I am, very respectfully yours,

WM. CARY SANGER.

REPLY.

ALBANY, *February* 20, 1895.

W. CARY SANGER, ESQ., *Assembly Chamber, Albany, N. Y.:*

DEAR SIR.—Replying to your favor of the 19th inst., I would suggest that your correspondent make a formal complaint to the Board regarding the charge of three cents per mile by the West Shore Railroad between Vernon and Utica. There is no legal obstacle to the West Shore Road's charging three cents a mile; the question of discriminating against Vernon, however, may possibly enter in this case, and the making of a formal complaint, as above suggested, will give the Board an opportunity of taking it up and investigating thoroughly as to the facts.

Very truly yours,

CHARLES R. DEFREEST,
Secretary.

V.

Alleged Discrimination in Express Rates.

ROCHESTER, N. Y., *February* 27, 1895.

MR. C. R. DEFREEST, *Secretary of Railroad Commission, Albany, N. Y.:*

DEAR SIR.—For some time the Rochester Chamber of Commerce has been considering the question of express rates paid by Rochester shippers.

Under existing conditions, Rochester is discriminated against in favor of both Syracuse and Buffalo. The express rates, to a certain extent, are governed by the contracts entered into between the express companies and railroad corporations.

I wrote to you for information as to whether the Railroad Commission would have jurisdiction in the matter. If you consider that this subject may properly be brought before the Railroad Commission, will you please inform me when and where the next meeting of the commissioners will be held. I would further inquire whether it would be possible, at some time in the future, for the Railroad Commissioners to come to Rochester and confer here with either the Chamber of Commerce as a body, or with a special committee appointed by the chamber.

Yours respectfully,
R. A. SIBLEY.

REPLY.

ALBANY, *February* 28, 1895.

R. A. SIBLEY, ESQ., *Rochester, N. Y.:*

DEAR SIR.—Your letter of the 27th inst. was laid before the Board to-day, and I am instructed to say that the Board is of the opinion that it has jurisdiction in the matter you refer to. The next meeting of the Board will be at the Capitol, Albany, Tuesday next, March 5. The Board would be pleased to come to Rochester at any time that will be convenient for the Chamber of Commerce or the committee, except the 19th of March, when it has a meeting in New York.

Very truly yours,
CHARLES R. DEFREEST,
Secretary.

VI.

Jurisdiction in Matter of Excessive Fare.

NEW YORK, *March* 22, 1895.

Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—Will you kindly inform me if your Board has jurisdiction over the Manhattan Railway Company of New York city in relation to the charging by said company of excessive fare.

Yours truly,
R. S. EMMET, JR.

REPLY.

ALBANY, *March* 23, 1895.

RICHARD S. EMMET, ESQ., 52 *Wall Street, New York City:*

DEAR SIR.—Replying to your favor of the 22d inst., I would state that this Board has jurisdiction in the matter referred to by you.

Very truly yours,
CHARLES R. DEFREEST,
Secretary.

See complaint of residents of Westchester.

VII

In Relation to Section 59.

SYRACUSE, N Y., *May* 28, 1895.

Board of Railroad Commissioners, Albany :

GENTLEMEN.—Kindly inform us whether, in your opinion, the provisions of section 59 of the Railroad Law, as amended by chapter 545 of the Laws of 1895, are satisfied by the publication of the certificate of incorporation of a railroad company, there being no other articles of association of said company, and

Second, Whether the requirements of section 59 of said act, as amended, are applicable to a street surface railroad company.

Very truly yours,
WATERS, McLENNAN & WATERS.

REPLY.

ALBANY, *May* 29, 1895.

MESSRS. WATERS, McLENNAN & WATERS, *Syracuse N. Y.:*

GENTLEMEN.—Replying to yours of the 28th inst., I would state that the provisions of section 59 are complied with by the publication of the certificate of incorporation. Also, that section 59 is now applicable to street railroad companies.

Very truly yours,
CHARLES R. DEFREEST,
Secretary.

VIII.

Rights and Powers of Street Surface Railroads.

MATTEAWAN, *Dutchess Co., N. Y., June* 13, 1895.

HON. CHARLES R. DEFREEST, *Secretary Board of Railroad Commissioners, Albany, N. Y.:*

DEAR SIR.—The Fishkill Electric Railway Company have erected and equipped a trolley line of railroad from Matteawan to Fishkill village, paralleling our road for 4 13-100 miles, not only interfering seriously with our passenger traffic, but I understand that they intend to carry freight also, and what I wish to know is if they can do so under the Street Railroad Law, under which the company has been organized. Their track is also laid with the "T" rail used in steam railroads, which I understand is contrary to law. Also, does not section 59 apply to paralleling steam railroads by street railroads; if so, has this company complied with that section of the Railroad Law?

Trusting that you will favor me with an early reply, I am,

Yours very truly,
JOHN S. SCHULTZE,
President and Treasurer.

REPLY.

ALBANY, *June* 14, 1895.

JOHN S. SCHULTZE, ESQ., *President Newburgh, Dutchess and Conn. Railroad Co., Matteawan, Dutchess Co., N. Y.:*

DEAR SIR.—Your letter of June 13th received. All electric railroad companies must procure the approval of this Board of the use of electricity, under section 100 of the Railroad Law.

Section 59 of the Railroad Law applies to street railroads formed after the 23rd of May, 1895, but not to those formed before that time.

While the street surface railroad provisions of the Railroad Law, contained in article IV., do not seem to contemplate that a street railroad shall carry freight, yet subdivision 7 of section 4 of the Railroad Law, relative to "Transportation of persons and property," seems to be broad enough to cover street railroads.

Section 109 of the Railroad Law prohibits the use of centre-bearing rails on street railroads. This Board has held that this section does not apply to the T rail.

Very truly yours,
CHARLES R. DEFREEST,
Secretary.

IX.

Overhead Clearance.

BROOKLYN, N. Y., *June* 20, 1895.

Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—Will you please oblige me with the information as to the clearance for overhead crossings that you advise, and the least that you will approve, and oblige very much

Very truly yours,
R. SCHERMERHORN,
Chief Engineer.

REPLY.

ALBANY, *June* 21, 1895.

RICHARD SCHERMERHORN, ESQ., *Chief Engineer Batavia and Northern Railroad Co.,* 168 *Montague Street, Brooklyn, N. Y.:*

DEAR SIR.—Replying to yours of the 20th inst., I would state that prior to the general adoption of automatic couplers and air brakes by the railroad companies of the State the Board insisted upon at least 20 feet clearance for overhead crossings; 21 feet if possible. Since the adoption of these devices the conditions have been somewhat altered, and the Board would now be satisfied with the 18 feet clearance, advising 19 or 20 if it can be obtained without greatly increased expense or inconvenience.

Very truly yours,
CHARLES R. DEFREEST,
Secretary.

X.

Parallel and Competing Roads.

NEW YORK, *July* 3, 1895.

CHARLES R. DEFREEST, ESQ., *Secretary Board of Railroad Commissioners, Albany, N. Y.:*

DEAR SIR.—I understand that the Railroad Commissioners have adopted a rule that they will not grant consent to the organization, or rather, to the performance of any work by a railroad corporation, where such new railroad corporation's proposed line will parallel that of an existing railroad.

If the Commissioners have adopted such a rule, can you kindly send me a copy of it, and will you also give me the title of the case in which the General Term rendered a decision last June, Judge Herrick writing the opinion, sustaining the refusal of the Railroad Commissioners to grant permission to some company to construct a road intended to parallel the New York Central.

Thanking you in advance for your courtesy, I am yours truly,

F. H. VAN VECHTEN.

REPLY.

ALBANY, *July* 6, 1895.

F. H. VAN VECHTEN, ESQ., *Downing Building*, 106-108 *Fulton Street, New York City:*

DEAR SIR.—Replying to your favor of the 3d inst., I would state that the Railroad Commissioners have not adopted any rule regarding the granting of consents under section 59 of the Railroad Law. It is their intention to consider each case upon its merits, and whether parallel and competing or not, if the Board deems the construction of a new road a public necessity, permission will be given. The burden of proof, however, will be upon the applicant for such permission.

The opinion of Judge Herrick, in General Term, to which you refer, was in the case of the Amsterdam, Johnstown and Gloversville Railroad. The road in relation to which application was denied, paralleled not only the New York Central, but also the Fonda, Johnstown and Gloversville and two electric roads.

Trusting this will satisfactorily answer your inquiry, I am very truly yours,

CHARLES R. DEFREEST,
Secretary.

XI.

Dangerous Crossing at Boonville.

BOONVILLE, N. Y., *July* 11, 1895.

HON. SAMUEL A. BEARDSLEY, *Railroad Commissioner:*

DEAR SIR.—In this village there is a railroad crossing which is very dangerous, and especially so during the summer season when fast trains

are run. Four or five accidents have occurred here during the past few months. The company has been repeatedly asked to have gates or a flagman stationed at this point, but to no avail.

The trustees of the village have requested me to ask you if you could not assist us in this matter. Is it not within the jurisdiction of the Railroad Commissioners to order a flagman or gates placed at this point?

Very truly yours,

B. A. CAPRON.

REPLY.

ALBANY, N. Y., *July* 15, 1895.

BENJAMIN A. CAPRON, *Boonville, N. Y.:*

DEAR SIR.—In reply to your favor of the 11th inst., addressed to Chairman Beardsley, I would call your attention to section 33 of chapter 676 of the Laws of 1892, which provides that you can apply to the county court or the supreme court for the relief you desire. In case you do not care to seek a remedy in this manner, your complaint will be transmitted to the railroad company, and a hearing given before the Board upon the matter in case the company declines to establish gates or employ a flagman at the alleged dangerous crossing. The probabilities are that you would obtain relief quicker by going to the court, as in the event of the refusal of the railroad company to obey the recommendation of the Board the matter would then have to be certified to the Attorney-General whose duty it would be to apply to the courts for the enforcement of the recommendation. However, if you desire to take the latter course the Board will give you a hearing.

Very truly yours,

CHARLES R. DEFREEST,

Secretary.

XII.

As to Conductors of Motor Cars.

COHOES, N. Y., *July* 18, 1895.

Commissioners of Railroads, Albany, N. Y.:

DEAR SIRS.—Would you please inform me if there is a law in this State prohibiting the employment of conductors on motor cars who wear glasses. Hoping to receive a reply by return mail.

I remain yours truly,

W. H. KENNEDY,
7 Grant street, Cohoes, N. Y.

REPLY.

ALBANY, N. Y., *July* 19, 1895.

W. H. KENNEDY, ESQ., 7 *Grant Street, Cohoes, N. Y.:*

DEAR SIR.—Your letter of the 18th inst. received. I know of no Law prohibiting the employment of conductors on motor cars who wear glasses. I enclose a copy of the law on the subject.

Very truly yours,
CHARLES R. DEFREEST,
Secretary.

XIII.

A T Rail Not a Centre-Bearing Rail.

CORNING, N. Y., *July* 25, 1895.

To the Honorable Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—A controversy has arisen between the Board of Trustees of the village of Painted Post, in this county, and the Corning and Painted Post Street Railway Company, now constructing a street surface railway through and from the city of Corning, to and through the said village of Painted Post, as to whether what is known as the "T" rail is a centre-bearing rail, within the inhibition of section 109 of article 4 of chapter 676 of the Laws of 1892.

Said railway company has already laid such rails on and through the streets of the said city of Corning, and the Painted Post authorities have prohibited it from doing so in their village; and have requested me to write you, and endeavor to ascertain what your views are as to the matter in controversy. They rely upon the statute quoted for a justification of their position.

You will very greatly oblige by an early reply.

Respectfully yours,
WILLIAM F. MCNAMARA.

REPLY.

ALBANY, *July* 26, 1895.

WILLIAM F. MCNAMARA, ESQ., *Corning, N. Y.:*

DEAR SIR.—Replying to yours of the 25th inst., I would state that this Board has repeatedly held that a "T" rail is not a centre-bearing rail, "Within the inhibition of section 109 of the Railroad Law."

The Corning and Painted Post Street Railway Company has not obtained the consent of this Board to operate by electricity. It will be required to do so before the road can be placed in operation.

Very truly yours,
CHARLES R. DEFREEST,
Secretary.

XIV.

Railroad Ticket Brokerage.

JAMESTOWN, N. Y., *August* 12, 1895.

Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—I am in pursuit of knowledge as to Railroad Ticket Brokerage. We have difficulty in our locality arising from brokers doing their business upon the line of the road, on the cars, and on the lands of the company, and the question is, can we prevent this and how?

In referring to the statutes I do not find anything that exactly answers my question, and, thinking that your attention may have been called to it and you can refer me to some law or decision as to the rights of ticket brokers, I take the liberty of writing you. Be kind enough to answer and oblige,

Yours truly,
C. R. LOCKWOOD.

REPLY.

ALBANY, *August* 14, 1895.

C. R. LOCKWOOD, ESQ., *Jamestown, N. Y.:*

DEAR SIR.—The only law that I know of affecting the sale of tickets in the manner you describe, is contained in sections 616 to 621 of the Penal Code. I would also refer you to section 615 of the Penal Code passed in 1881, which section was repealed in 1882.

Very truly yours,
CHARLES R. DEFREEST,
Secretary.

XV.

No Power to Make Rates.

ATLANTA, GA., *August* 15, 1895.

HONORABLE CHARLES R. DEFREEST, *Secretary Railroad Commission, Albany, N. Y.:*

DEAR SIR.—At the suggestion of Judge Allen Fort, a member of this Commission, I beg to request you to send me at your earliest convenience a copy of the Standard Freight Tariff of your Commission. If your Commission does not possess rate-making power, but approves rates adopted by the railroad companies, please procure for me (or inform me where I can obtain) rates that you have approved effective on the leading railroads, governing all classes of freight in your State. These tariffs are especially desired for the purpose of comparing rates and classifications, and with a view, if possible, to provide some system of uniform classification of freight. Please let me hear from you at any early day.

Yours very truly,
J. D. MASSEY,
Secretary Board of Railroad Commissioners of State of Georgia.

REPLY.

ALBANY, *August* 19, 1895.

J. D. MASSEY, ESQ., *Secretary Railroad Commission, Atlanta, Ga.:*

DEAR SIR.—Your letter of the 15th inst. has been received, and in reply I would say that this Commission does not possess rate-making power, nor does it approve or disapprove of rates adopted by railroad companies.

Very truly yours,
CHARLES R. DEFREEST,
Secretary.

XVI.

Right of Street Surface Roads to Carry Freight.

CORTLAND, *August* 24, 1895.

Board of Railroad Commissioners, State of New York, Albany, N. Y.:

GENTLEMEN.—The Erie and Central New York Railway is building its line from Cortland, N. Y., to Cincinatus, N. Y., this season, and the Cortland and Homer Traction Company are extending their road to McGranville, N. Y., from Cortland, and runs in the streets of Cortland and the highways to McGranville through which the Erie and Central New York Railway passes on its way to Cincinatus, N. Y. The Cortland and Homer Traction Company are arranging to carry freight to McGrawville and if allowed to would be a serious matter to the Erie and Central New York Railway.

They expect to haul freight and coal cars through the streets of Cortland, over the highways between the two villages and through the streets of McGrawville, N. Y. The Erie and Central New York Railway is a steam railroad duly incorporated and will operate in the usual way, and I, as one of the parties interested, would like the opinion of your Honorable Board as to whether the Cortland and Homer Traction Company, an electric railroad incorporated under the general act, has the right to haul freight and coal cars over the above described route.

I presume that this question has been before you before, but I have not known of its being settled.

Respectfully,
J. S. BULL,
for Erie and Central New York Railway.

REPLY.

ALBANY, *August* 27, 1895.

J. S. BULL, ESQ., *Cortland, N. Y.:*

DEAR SIR.—Replying to your favor of the 24th inst., I would say, that unless some restrictions exist in the local franchise to the Cortland

and Homer Traction Company, I have no doubt the law gives them the right to carry "persons and property." I refer you to subdivision 7 section 4 of the Railroad Law, chapter 676 Laws of 1892.

Very truly yours,

CHARLES R. DEFREEST,
Secretary.

XVII.

Freight Rates and Pooling.

UNIVERSITY OF WISCONSIN, MADISON, *August* 30, 1895.

Chairman Board of Railroad Commissioners, Albany, N. Y.:

DEAR SIR.—Will you kindly answer the following:

1. Are there many complaints of unjust discriminations in rates before the Commission? Are rates reasonably stable?
2. Was it the common experience that pools as they existed prior to their prohibition were injurious?
3. Would it be advisable to legalize pooling as provided in the above question?

Trusting that this may receive your earliest attention, I am,

Very truly yours,

HENRY LOCKNEY.

REPLY.

ALBANY, N. Y., *September* 13, 1895.

HENRY LOCKNEY, ESQ., *Madison, Wis.:*

Replying to your favor of August 30th, answering your inquiries in their order:

I would state, first, that very few complaints are now made to the Board of unjust discrimination in rates.

The rates throughout this State are maintained with reasonable stability.

It would be advisable to legalize any policy that would prevent ruinous competition in freight rates, provided it secured reasonable promptness in service and absolute uniformity and reasonableness in charges.

Very truly yours,

SAMUEL A. BEARDSLEY,
Chairman.

Approval of Highway Crossing Signs, in Accordance with Section 50 of the Railroad Law.

I.

IN THE MATTER OF THE APPLICATION OF THE NEW YORK AND NEW ENGLAND RAILROAD COMPANY FOR APPROVAL OF A DESIGN FOR HIGHWAY CROSSING SIGNS.

February 15, 1895.

On February 11, 1895, the New York and New England Railroad Company applied to the Board for approval of a design for highway crossing signs. The blue print accompanying the application shows an upright post, the sign at the top being in the form of a Y, the lettering reading, "Railroad crossing; look out for the engine." On February 15, the Board approved the same, and endorsed its approval on the blue print submitted.

CROSSINGS AT GRADE.

I.

IN THE MATTER OF THE COMPLAINT OF THE KINGSTON CITY RAILROAD COMPANY AGAINST THE COLONIAL CITY ELECTRIC RAILWAY COMPANY, RELATIVE TO CROSSING OF THE TRACKS OF THE FIRST NAMED COMPANY.

March 21, 1895.

Ordered, that the draft of ordinance as submitted, a copy of which is hereto attached, be and hereby is approved.

By the Board,

CHARLES R. DEFREEST,
Secretary.

An Ordinance Regulating the Speed of Trolley Cars and Their Management at Grade Crossings in the City of Kingston.

The Common Council of the City of Kingston do ordain as follows:

Section 1. Where two or more street car lines cross each other, or where they merge, the railway company having the right of way by agreement or otherwise, shall at a point fifty feet from cross-over reduce its rate of speed and run from such point over such crossing at a rate of speed not to exceed four miles an hour.

§ 2. Any car on any street railway which has not the right of way shall come to a full stop at a point twenty-five feet from the cross-over before entering upon or crossing the tracks of the other line or any joint track, and wait until any car approaching at such reduced speed and with in seventy-five feet has passed.

§ 3. All street surface cars shall come to a full stop before crossing the track of any steam railroad.

§ 4. Any street railway company, or the receivers, managers, motormen, conductors, drivers or employes thereof, violating the provisions of this ordinance shall be guilty of a misdemeanor.

§ 5. This ordinance shall take effect immediately.

II.

IN THE MATTER OF THE APPLICATION OF THE CORTLAND AND HOMER TRACTION COMPANY FOR APPROVAL OF AN AGREEMENT RELATIVE TO THE CROSSING OF THE TRACKS OF THE SYRACUSE, BINGHAMTON AND NEW YORK RAILROAD COMPANY.

May 6, 1895.

Ordered, that the consent of the Board of Railroad Commissioners is hereby given to the proposed crossing upon the terms and conditions contained in the within contract, in accordance with section 2 of chapter 239 of the Laws of 1893.

CHARLES R. DEFREEST,
Secretary Board of Railroad Commissioners.

The above Order was indorsed upon the agreement between the Cortland and Homer Traction Company, and the Syracuse, Binghamton and New York Railroad Company, copy of which is on file in this office.

III.

IN THE MATTER OF THE APPLICATION OF THE LONG ISLAND RAILROAD COMPANY FOR THE APPROVAL OF THE BOARD OF AN INTERLOCKING SWITCH AND SIGNAL APPARATUS TO BE ERECTED AT THE CROSSING OF THE TRACKS OF SAID COMPANY, AND THOSE OF THE BROOKLYN CITY RAILROAD COMPANY, AT CYPRESS AVENUE, IN THE CITY OF BROOKLYN.

June 13, 1895.

Application having been made to this Board by the Long Island Railroad Company, on or about June 4, 1895, for the approval of the Board of an interlocking switch and signal apparatus to be erected at the crossing of the tracks of said company, and those of the Brooklyn City Railroad Company, at Cypress avenue, in the City of Brooklyn; and a hearing having been given on said application, on June 13th, in the City of New York, William J. Kelly, counsel, appearing for the application, and Daniel F. Lewis, appearing for the Brooklyn City Railroad Company; now, after hearing William J. Kelly for said application, and Daniel F. Lewis in opposition thereto, and after examining and filing a plan of the apparatus proposed to be erected at the crossing, it is

Ordered, that the Board approves, and it does hereby approve, of the interlocking switch and signal apparatus proposed to be erected by the Long Island Railroad Company at the point in question and as shown by the plan filed in this office, and that the respective railroad companies are hereby relieved from the "full stop and crossing on signal" provided for in Section 36 of the Railroad Law, when such interlocking switch and signal apparatus shall have been put in operation.

CHANGE OF NAME.

I.

IN THE MATTER OF THE APPLICATION OF THE PORT RICHMOND AND PROHIBITION PARK ELECTRIC RAILROAD COMPANY TO CHANGE ITS NAME TO THE STATEN ISLAND TRACTION COMPANY.

January 22, 1895.

Ordered, that the within petition be and hereby is approved, and that publication be made in the *Albany Evening Journal* and *Staten Island Star*, in compliance with Section 2,413 of the Code of Civil Procedure.

ABANDONMENT OF PART OF ROUTE.

I.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO RAILWAY COMPANY, FOR THE APPROVAL OF THIS BOARD OF THE DECLARATION OF ABANDONMENT AND RELINQUISHMENT OF PART OF ITS ROUTE.

December 10, 1894.

The Buffalo Railway Company, having duly filed with this Board, on or about November 24, 1894, an application for the approval of the Board of the declaration of abandonment and relinquishment of that portion of the route of said company, in Carlton street, easterly from Main street to Michigan street, in Goodell street between Main and Michigan streets; in York street between Normal avenue (formerly called Thirteenth street) and Fourteenth street, and also in Jersey street between Normal avenue (formerly called Thirteenth street) and Fourteenth street; and having filed with the Board a certified copy of the proceedings of said Buffalo Railway Company at a meeting of the Board of Directors held at the office of the company in the city of Buffalo, on the 16th day of May, 1894, at which the aforesaid declaration of abandonment and relinquishment was unanimously adopted; together with a certified copy of the proceedings of a special meeting of the stockholders of the Buffalo Railway Company, called in accordance with law, and held at the office of the company in the city of Buffalo, on the 20th day of November, 1894, at which stockholders representing 38,298 shares of stock were present in person or by proxy, and voted in favor of such declaration of abandonment and relinquishment; and hearing upon said application having been set down and had, before this Board, on December 10, 1894, at which proof of the publication of the notice of the hearing was filed, and H. M. Watson, president, and Porter Norton, counsel, appeared for the said Buffalo Railway Company, and no one appeared in opposition to said application; now, after hearing H. M. Watson and Porter Norton for said application, and it appearing to the Board that the public interests do not require the operation of the portion of the route so proposed to be abandoned, therefore, it is

Ordered, that said application be and it is hereby approved, and such approval shall be endorsed upon the declaration of abandonment and relinquishment, in accordance with section 103 of the Railroad Law.

II.

IN THE MATTER OF THE APPLICATION OF THE ALBANY RAILWAY FOR THE APPROVAL OF THIS BOARD OF THE DECLARATION OF ABANDONMENT OF THAT PORTION OF THE PEARL STREET LINE OF SAID RAILWAY LYING BETWEEN CLINTON AVENUE AND VAN WOERT STREET IN THE CITY OF ALBANY.

December 12, 1894.

The Albany Railway having duly filed with this Board an application for the Board's approval of the declaration of abandonment and relinquishment of so much of the line of said Albany Railway as lies on North Pearl street, between Clinton avenue and Van Woert street; and having filed with the Board a certified copy of the proceedings of said Albany Railway at a meeting of the board of directors held at the office of the company, in the city of Albany, on the 12th day of July, 1894, at 12 o'clock noon, at which the aforesaid declaration of relinquishment and abandonment was unanimously adopted, together with a certified copy of the proceedings of a special meeting of the stockholders of the Albany Railway held at the office of the company, in the city of Albany, on the 3d day of September, at 12 o'clock noon, which meeting was adjourned until the 6th day of October, 1894, and held on said date at 12 o'clock noon, at which stockholders representing 11,967 shares of stock were present in person or by proxy, and at which the aforesaid declaration of abandonment and relinquishment was ratified and adopted; together with the proofs of publication of notice of such meeting and notice to the individual stockholders; and hearing upon said application having been set down and had before this Board on October 29, 1894, proof of the publication of notice of such hearing having been duly filed, and subsequent hearings by adjournment having been had, E. S. Fassett, appearing for the company, and W. Reynolds, W. H. Williams and others appearing in opposition to the application; now, after hearing E. S Fassett for the application and W. Reynolds, W. H. Williams and other in opposition, and after reading and filing affidavits, petitions and statements favoring such abandonment and showing the results of operation during the past year, and others in opposition thereto; and the Board having taken the application under due consideration, and it appearing to it that the public interest does not require the operation of the portion of the line so proposed to be abandoned, therefore, it is

Ordered, that the said application be and it is hereby approved, and such approval shall be endorsed upon the declaration of abandonment, in accordance with section 103 of the Railroad Law.

CHANGE OF GAUGE.

I.

IN THE MATTER OF THE APPLICATION OF THE BUFFALO, ATTICA AND ARCADE RAILROAD COMPANY FOR THE CONSENT OF THIS BOARD TO A CHANGE OF THE GAUGE OF ITS RAILROAD FROM NARROW GAUGE TO STANDARD GAUGE.

December 10, 1894.

The Buffalo, Attica and Arcade Railroad Company, having duly filed with this Board, on or about December 7, 1894, a verified petition asking for the consent of this Board to a change of the gauge of said railroad from narrow gauge to standard gauge; and it appearing from said petition that at a special meeting of the stockholders of said company, called for such purpose, and held on the third day of December, 1894, in the village of Attica, N. Y., persons representing and owning more than three-fourths of the capital stock of said company, unanimously passed a resolution approving of such change as aforesaid; and it appearing to the Board that the interests of the public will be subserved by the change of the gauge of the railroad from narrow to standard gauge, therefore, it is

Ordered, that this Board consent, and it does hereby consent, to the change of the gauge of the Buffalo, Attica & Arcade Railroad from narrow to standard gauge, in accordance with chapter 267 of the laws of 1891.

II.

IN THE MATTER OF THE APPLICATION OF THE NIAGARA FALLS AND LEWISTON RAILROAD COMPANY FOR THE CONSENT OF THIS BOARD TO A CHANGE OF THE GAUGE OF ITS RAILROAD FROM THREE FEET AND SIX INCHES TO FOUR FEET EIGHT AND ONE-HALF INCHES.

April 23, 1895.

The Niagara Falls and Lewiston Railroad Company, having duly filed with this Board, on or about April 22, 1895, a verified petition asking for the consent of the Board to a change of the gauge of said rail-

road from three feet and six inches to four feet and eight and one-half inches; and it appearing from the papers on file that at a special meeting of the stockholders of said company, called for such purpose and held on the 20th day of April, 1895, in the City of Buffalo, N. Y., stockholders owning three-fourths in amount of the capital stock of said company, voted in favor of changing the gauge as aforesaid; and it appearing to the Board that the rights of the public will not be infringed by the change of the gauge of this railroad from narrow to standard gauge, therefore, it is

Ordered, that this Board consent, and it does hereby consent, to a change of the gauge of the Niagara Falls and Lewiston Railroad from three feet and six inches to four feet eight and one-half inches, in accordance with chapter 267 of the laws of 1891.

Cases Pending Before the Board of Railroad Commissioners, September 30, 1895.

Increase of Capital Stock.

Application of The Brooklyn, Newtown and Bowery Bay Railroad Company, from $100,000 to $500,000.

Application of The North Mount Vernon Railway Company, from $20,000 to $250,000.

Change of Motive Power.

Application of The Middletown-Goshen Traction Company.

Applications for Certificate Under Section 59 of the Railroad Law.

LeRoy and Northern Railroad Company.

Greenwich and Schuylerville Electric Railroad Company.

Hudson River and Washington County Midland Railroad Company.

Complaints.

The Long Island Railroad vs. The Brooklyn City Railroad Company, in matter of crossing tracks at grade at New Flushing avenue.

Charles W. Ecob vs. Delaware and Hudson Canal Company, alleged dangerous crossing.

Residents of Fullers Station, etc., vs. West Shore Railroad Company, in matter of train accommodations.

Chapin & Company vs. The New York Central and Hudson River Railroad Company, in matter of mileage books.

E. C. M. Rand vs. The New York, Lake Erie and Western Railroad Company, alleged dangerous crossing.

ACCIDENTS.

I.

IN THE MATTER OF THE DERAILMENT OF PASSENGER TRAIN NO. 8, SOUTHBOUND, ON THE NEW YORK AND CANADA RAILROAD DIVISION OF THE DELAWARE AND HUDSON CANAL COMPANY, NEAR PORT KENT, AUGUST 30, 1894.

October 8, 1894.

It appears from statements of the officials of this company, at an investigation held by this Board, that on August 30 southbound passenger train No. 8, when at a point one and one-half miles north of Port Kent, was derailed; the pony truck and one pair of drivers of the locomotive and the rear car of the train remaining on the track. The first evidence of leaving the rails was seen on a tangent after a curve had just been passed, and when the train stopped it was all on a straight track. New ballast had recently been put in and when the cars left the rails the wheels on one side sank into the soft gravel, causing the cars to lean, thereby slightly injuring four passengers, two employes and the express messenger.

Immediately after the accident a careful and searching examination was made as to the condition of the roadbed, track, engine and cars by an official of each department, and nothing was found that in any manner would indicate the cause of this accident. A short time previous to the accident two feet of new filling had been put in at this point, ninety per cent. of new ties had been placed, and new eighty pound rail with all new fastenings had been laid. The equipment of the train was nearly new and in first class condition, with steel tired wheels, and there were no sharp flanges on engine or cars.

Conclusions.

The fact that the pony truck and one pair of drivers of the locomotive and the rear car of the train remained on the rails is conclusive that there was no fault with the track. The further fact that the roadbed, track and equipment were comparatively new and in first class condition, makes it impossible for the Board to assign any positive reason for this derailment. That such an accident did occur, under these well-nigh perfect conditions, is a subject for consideration by all railway men.

II.

IN THE MATTER OF THE INVESTIGATION OF ACCIDENTS ON TROLLEY RAILROADS IN THE CITY OF BROOKLYN.

February 28, 1895.

After a careful examination of the facts, and after several hearings and personal inspections of the method of operation on the various lines of road, the Board renews its recommendations made in December, 1893, and published in its annual report for that year, and republished in the report of 1894, a copy of the same being hereto annexed. From the investigation, and the nature of the accidents, the Board is confident that if such recommendations had been adopted by the companies and the suggestions then made had been conscientiously carried out, most of the accidents would have been avoided.

The Board is confirmed in its adherence to the recommendations referred to by the fact that an advisory committee, appointed by the Mayor of Brooklyn, has recently examined the subject, and in its report has adopted and renewed the main recommendations heretofore made by the Board, as stated.

In addition to such recommendations and suggestions heretofore made, the Board further recommends that the method of payment of the motormen and conductors shall be such as to, in no event, tend to cause employes to attempt to make up time by running at an excessive rate of speed. Ordinances should also be enacted by the Common Council, and enforced by the police authorities, regulating the speed of cars, and the obstruction of tracks by vehicles. The pavements between the rails should also be so maintained as to cause as slight interference as possible with the fenders of the cars. To be of any value the fender must be close to the rail. The Board is of the opinion that the fenders now in use in said city are of little or no practical use. Forms of apparatus have been described before the Board, which seem to solve the problem of regulating the speed of cars. If it can be demonstrated by practical operation, that such devices will do what is claimed for them, the Board most earnestly recommends the adoption of one by the various companies in the city of Brooklyn. Opportunity to make the tests necessary should immediately be given by the railroads in question.

By the Board.

CHARLES R. DEFREEST,
Secretary.

RECOMMENDATIONS AS TO OPERATION OF ELECTRIC AND CABLE CARS ON STREET SURFACE RAILROADS.

First. Every car shall be equipped with gates on both ends, which shall be closed on the side next to the adjoining track. No person (except an instructor, when necessary) shall be allowed to ride on the platform with the motorman on any electric or cable car.

Second. On all open cars there shall be attached a guard on the side of the car next to the adjoining track, running the entire length of the car, to prevent passengers entering or leaving the car on that side; this

guard to be of such a nature that it may be transferred from one side to the other.

Third. An efficient guard or safety fender shall be attached to the trucks of all electric and cable cars. This to be done as quickly as possible. The question of fenders on electric and cable cars is one to which this Board, for the past year, has given its careful consideration, by personal examination as to the practical working of the several forms in use in different cities in the State, and also by examination of types used in other States. The time has arrived, owing to the rapid increase in the number of electric and cable cars, when the adoption of the best obtainable form of fender is urgent; the companies should not wait until a perfect fender is obtained, but they should get the best forms at present in use and improve upon them until the above conditions, as near as may be, are realized. The final aim of railway officials and employes should be, that, while the car may be equipped with the most improved form of fender, its operation should be such that there will be no occasion for its use. The cars should be operated so carefully that accidents will rarely occur. If the suggestions made by the Board as to regulations, and care should be carried out, with due co-operation by the companies and by the public, electrical propulsion would be as safe as the use of horses has ever been.

Fourth. The speed of cars shall not exceed four miles an hour crossing streets.

Fifth. Where two or more street car lines cross or where they merge, an agreement shall be made as to which line shall have the right of way; the car that has not the right of way shall come to a full stop before entering on or crossing over the tracks of the other line or the joint track.

Sixth. Inspectors sufficient in number to attain and preserve the best discipline shall be employed by all electric and cable railroad companies. Employes on cars shall wear a uniform, cap at least.

Seventh. Cars passing in opposite directions shall not meet on street crossings.

Eighth. At congested points on the line of such roads a sufficient number of employes shall be placed to protect the public and insure all possible safety.

Ninth. That the speed of such cars be reduced to the minimum on all curves where the view is obstructed.

Tenth. That the use of some improved form of air brake, similar to that used now on some of the cars of the Broadway and Seventh avenue, and One Hundred and Twenty-fifth street cable railroads, in New York city, be considered by the managers of all electric and cable railroads. During the past year the Board has made examinations as to the movements of street cars in the cities of the State, and is impressed with the benefits which might be derived from the use of some form of power brake by street railroad companies. The necessity of quick stops on steam railroads, which led to the adoption of the straight air brake, and afterward to the automatic brake, is now being experienced on street railroads operated by cable and electric power. Instances are frequent where the reduction of speed in a second of time is necessary to prevent accident, and this can only be secured by the adoption of some form of air brake.

Eleventh. That all applicants for positions as motormen shall be subjected to a thorough examination as to their habits, physical ability and

intelligence. If this examination is satisfactory, the applicant shall be placed in a shop or power-house where he can be taught and made familiar with the power and machinery he is about to control. When this is done he should be placed on a car with an instructor, and when the latter is satisfied as to the applicant's capability for the position of motorman, he shall so certify to the manager, and, if appointed, the applicant should first serve on the lines of least travel. These requirements will necessitate the employment of first-class men, and they should be strictly held to the observance of all ordinances, rules and regulations.

Twelfth. All cars on electric railroads where there is a grade of over three per cent. shall be equipped with sand boxes and sand.

Thirteenth. Stops should be made only on crossings. Where blocks are long, stations or stopping places should be designated.

Under the old system of horse cars it has been customary for the cars at crossings to pass the first or near crossing and stop with the rear platform at the second crossing, thereby avoiding the blocking of cross streets by the horses and cars. Now that the use of horses has been practically dispensed with, the propriety of cars stopping at the first crossing so that egress and ingress can be had from the front platform is under discussion. The Board is not yet ready to make a recommendation on this subject.

Local authorities should use all possible means to prevent the unnecessary and oftentimes willful obstruction of street car lines by persons in charge of vehicles.

Drivers of vehicles in cities should use caution in driving from cross streets to streets where there are electric or cable car lines.

The speed of such cars in suburban districts should not exceed twelve miles an hour. Regulations as to the rate of speed in the more populous localities of large cities must, necessarily, be left to the local authorities. Where it becomes necessary for the Board to interfere as to this question, special recommendations applying to the particular localities will be made. It is undoubtedly customary in many instances for motormen on trolley cars to run at an excessive rate of speed. The attention of the local authorities is called to this subject, and it is earnestly recommended that they take action in the matter. The Board's attention has quite recently been called to the statement of Prof. Plymton in the annual report of the Brooklyn Subway Commission, wherein he says, in speaking of the trolley system, " Regulation of the speed can probably be accomplished only by a mechanical governor, which will limit the rate of the motor to that required to propel the car to the maximum legal velocity." If such a device is practicable it will be a very satisfactory solution of the question. If it is not, the Board would suggest to the consideration of the officials of these roads the use of some form of indicator on each car, whereby the motorman, as well as the passengers, can tell at a glance the rate of speed maintained by the car.

Legislation should be had which will compel all cars on such railroads to stop before crossing steam railroads, or some provision should be made for an interlocking switch and signal at such crossings of steam railroads, as is now provided where steam railroads cross each other. The law should also provide that at highway crossings in suburban districts there shall be signboards to warn people of the presence of such electric or cable roads.

III.

IN THE MATTER OF A COLLISION BETWEEN PASSENGER TRAIN NO. 7 AND A FREIGHT TRAIN ON THE FITCHBURG RAILROAD IN THE CITY OF TROY ON FEBRUARY 20TH, AT 6:54 P. M.

March 5, 1895.

The facts and circumstances connected with this accident, as ascertained by investigation, are as follows:

Passenger train No. 7, of the Fitchburgh Railroad, was due to pass Middleburgh street, in the city of Troy, at 6:49 P. M. Engine No. 143, in charge of J. R. Hill, engineer, and Yard Conductor W. Shanahan, with a train of thirty-five freight cars loaded with machinery, started from the upper end of the Troy yard at 6:35 P. M., for transfer to the Central-Hudson Railroad, and became stalled in the snow just west of Middleburgh street. The yard signals which could be seen a long distance by the engineer of a train approaching from the east, were set clear for No. 7, and instead of changing the signal, Yardmaster W. E. Palmer went with the yard conductor to the head of the freight train and assisted in putting sand on the rails to facilitate the starting of the freight engine. No effort was made to protect the rear of the freight train or to provide for the safety of train No. 7 until the whistle of engine No. 7 was heard at Canal street, a short distance east of Middleburgh street. T. Gilbo, the brakeman on the rear of the freight train, then started back with a white lantern to signal No. 7, and the yard signal was changed to danger. Gilbo succeeded in getting about five car lengths back when No. 7 came in sight. The engineer of No. 7 saw the light and reversed his engine, but could not stop, and ran into the freight train at the rate of about ten miles an hour. The engine of No. 7 and one coach and four freight cars were damaged to the extent of less than $200. Harry Benson and P. B. Finch, express messengers on No. 7, were injured slightly, and a number of passengers were bruised, no one seriously.

The accident was due solely to unpardonable negligence on the part of employes. The rear brakeman should have been supplied with a red light when the train started, instead of which he expected to get one of the yardmaster on the way through the yard. He should also, as required by the company's rules, have gone back as soon as his train became stalled, especially in view of the fact that he knew No. 7 would soon be due. He said he waited for the signal of the engineer to go back and did not think it necessary until he heard the whistle of No. 7, when it was too late. The yardmaster should not have given No. 7 a clear signal until the freight train had reached a place of safety, and the red lantern should have been in the hands of the rear brakeman instead of in his possession at the head of the freight train. The yard conductor should have promptly seen that his train was protected and that the rear brakeman had gone back properly equipped with a red lantern. The rules of the road also require the engineer, in case of detention, to signal the rear brakeman to go back with a danger signal, which was not done. Had the rules of the road been promptly observed by any of the four employes, the collision would have been averted. Each man was, therefore, held responsible for the accident and all were discharged by the company. If it had not been for the fact

that the engineer of No. 7 was slowing down as he approached the Troy station and had his engine nearly under control, the accident could not have resulted other than in loss of life to passengers as well as to the trainmen of No. 7.

The action of the company is commended. Punishment for the non-observance of rules designed to ensure safety in travel cannot be too prompt in its infliction when the responsibility has been properly determined. The carelessness and indifference manifested by the employes who were responsible for the above collision was such an infraction of discipline as fully warranted their dismissal.

IV.

IN THE MATTER OF A REAR COLLISION NEAR SIGNAL TOWER No. 38, AT VERONA STATION ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, FEBRUARY 9, 1895, AT 4:45 P. M., BY WHICH CHARLES H. NILES, CONDUCTOR, WAS KILLED.

March 26, 1895.

From testimony taken by Coroner Nock, from statements of officials of the company and from the rules governing the movement of trains on this railroad, the circumstances attending this accident appear to be substantially as follows:

On the morning of February 9, 1895, Charles H. Niles, the conductor of the Oneida work train, on the New York Central and Hudson River Railroad, received orders to run a snow scraper from Oneida to DeWitt on track No. 2 (passenger track), then to return to Oneida on passenger track No. 1. When he arrived at Oneida it was found that the scraper was disabled, and it was left there and the work train, consisting of engine No. 631, G. W. Gilkerson, engineer, and caboose in charge of Conductor Niles, left Oneida about 4:30 P. M., and proceeded east on track No. 4, toward Rome, to pick up workmen. When it arrived at a point about fifty feet east of signal tower No. 38, about five miles east of Oneida, it was stalled in a snowdrift. When it had been stopped about six minutes, a freight train drawn by two engines, Nos. 631 and 741, the former in advance, engineers Kline and Wahman, approached and passed tower No. 38, at a high rate of speed, notwithstanding that the danger signal was set against them, and crashed into the caboose of the work train, resulting in the death of Conductor Niles.

Tracks Nos. 3 and 4 are freight tracks on which the block system is "permissive." The rules governing the movements of trains in such permissive blocks are brief, plain and simple, and there is no excuse for any employe to so interpret them as to cause an accident. Engineer Kline knew when he passed tower No. 39 at Oneida that he was in that block by permission of a "caution" card; that it was his duty to have his train under absolute control and to proceed to tower No. 38 with great care. On the contrary, he passed over this five-mile block at the rate of thirty miles an hour and ran by the danger signal at tower No. 38, thereby violating every rule governing the safe movement of his train. It appears, also, from the evidence, that Fred Rahn, the flagman of the work train, was negligent in the discharge of his duty. His train

was stalled six minutes, and if he had gone back immediately on its stoppage, as the rules provide, he could have been back at least a quarter of a mile to signal approaching trains. It was also the duty of Conductor Niles as soon as his train stopped to know that his flagman had gone back and then to learn the cause of the stoppage. On the contrary, the evidence shows that he gave the flagman no order and that he remained in the caboose.

At an immense cost a system of block signals has been erected on the road for the purpose of protecting life and property, and a code of rules, simple and plain, has been formulated to govern employes. In this instance, Engineer Kline admitted that he violated the rules as to caution between blocks Nos. 39 and 38, and this, in connection with his running by the danger signal at tower No. 38, made his action criminally careless.

V.

IN THE MATTER OF THE DERAILMENT OF ENGINE NO. 121 ON THE LONG ISLAND RAILROAD, NEAR NEW VENICE, FEBRUARY 8, 1895, AT 5:11 P. M.

March 26, 1895.

It appears from reports and statements from the Long Island Railroad Company that passenger train No. 75, with two engines attached (engine No. 121 being on the forward end of the train), when near New Venice, on February 8, 1895, at 5:11 P. M., ran into a snowdrift; the wheels of the forward engine left the track, and after running some distance the engine fell over on its side, carrying the engineer and fireman with it. The engineer, Patrick Mahony, and the fireman, David Lovell, were both killed.

This method of fighting snow by adding extra power to trains is practiced by all railroads subject to heavy snowstorms. There are localities, however, where the soil is sandy and the wind is likely to mix sand with the snow, where much care should be exercised. That this was the case at the point in question, the Board has been unable to determine; it suggests, however, that where more than one locomotive is attached to a train, that they be connected by a bell cord, so that if anything happens which necessitates a stop, communication can be instantly had with the engine controlling the brakes.

VI.

IN THE MATTER OF THE DERAILMENT OF MAIL TRAIN NO. 32, NEAR SIGNAL TOWER NO. 69, NORTH OF RHINECLIFF STATION, ON THE NEW YORK CENTRAL AND HUDSON RIVER RAILROAD, AT 3:08 A. M., FEBRUARY 15, 1895.

March 26, 1895.

It appears from investigation that on February 15, 1895, mail train No. 32, southbound, engine No. 871, James Donohue, engineer, passed

Barrytown, the first station north of Rhinecliff, at 3:02 A. M.; that a freight train with two engines (one of which was disabled on one side), left Rhinecliff going north at 3:03 A. M., and when at a point just south of signal tower No. 69, a freight car, the eighth from the engine, left the track and ran over and stopped on the southbound track, right in front of the approaching southbound mail train, which crashed into the derailed car. The engine was thrown from the track over a slight embankment into the river, resulting in the death of James Donohue, engineer, and serious injury to the fireman.

The time between the derailment of the freight car and the approach of the mail train was so short that it was impossible to signal it. This is a very rare kind of accident, and incidents like the above cannot be provided against on double-track lines. The Board has no comment to make, other than in cases like this when a locomotive is using but one side, great care should be observed by trainmen as to the condition of couplings.

VII.

IN THE MATTER OF THE DERAILMENT OF ENGINE NO. 297 ON THE LEHIGH VALLEY RAILROAD, NEAR NORTH LEROY, N. Y., ON FEBRUARY 9TH, 1895.

April 9, 1895.

It appears from the investigation of the Board that on this date four locomotives were coupled together, to clear the tracks of snow; that when they arrived at the first crossing west of the depot at North Leroy, the leading engine, No. 297, in charge of Edward Duryea, engineer, left the rails and fell over on its side, catching the engineer under the boiler, resulting in his instant death. J. R. Barrett and Charles J. Ryan, employes, were slightly injured.

With these engines, in addition to the regular crews, were the trainmaster, the supervisor, and the division superintendent. Every precaution to insure safety was taken, such as slowing up at bad places and when approaching cuts. A system of signals, to be observed by all persons on the engines, was in use. At the time of the accident, they were moving at the rate of about eighteen miles an hour. When the leading engine left the rails it stopped at right angles with the track, the coupling broke, and the three following engines passed on and stopped with the last one, opposite No. 297. An examination was instantly made as to the cause of the accident; it was observed that the rails for several hundred feet on one side were turned over, and the derailment was attributed to this. Subsequently, an examination of the locomotive was made, and it was found that the back wheel on the forward truck of engine No. 297 was broken and had cut into the truck frame; sometime afterward, when the snowdrifts had melted, the broken parts of a wheel were found about a quarter of a mile west of the point where the accident occurred, and it was established beyond doubt that these parts belonged to the fractured wheel. When the wheel was broken, the back end of the truck-frame sagged, thus bringing increased

weight on the safety chain, and when the engine struck the snowdrift it offered such resistance that the chain broke, allowing the corner of the truck to drop down, wedging the broken wheel against the rails and forcing them outward.

The fact that the engines ran such a short distance after the derailment, verifies the statements made as to the rate of speed at which they were running, and the finding of the fractured wheel some distance from the point of the accident establishes the cause thereof.

VIII.

IN THE MATTER OF THE DERAILMENT OF ENGINES NOS. 637 AND 72, NEAR WARSAW STATION, ON THE NEW YORK, LAKE ERIE AND WESTERN RAILROAD ON FEBRUARY 13, 1895.

April 9, 1895.

It appears from the investigation made by the Board that on February 13, 1895, locomotives Nos. 637 and 72 were hauling passenger train No. 29 on the New York, Lake Erie and Western Railroad, when at a point about three-fourths of a mile west of Warsaw station, both engines were derailed; the tender of No. 637 turned partly over on its side, catching the fireman, Daniel Hogan, between it and a snowbank, resulting in his death.

At the time of its occurrence it was thought that this accident was caused by the spreading of the rails, but subsequent examination showed that the primary cause was a broken rail, which was broken through its base, the fracture extending through its neck about eighteen inches and then terminating in the tread of the rail, leaving at the latter point a V-shaped fracture. This piece was thrown out of place when the forward truck wheels of the first engine struck it, causing the turning over of the rails and derailment of both engines; it also penetrated the leg of the boiler of engine No. 637, allowing water and steam to escape.

The rail in question was an 80-pound steel rail and was placed in the track new in July, 1891, and showed but little wear. Fractures of rails of this weight and service are rare, and in this instance no specific cause is assigned.

IX.

IN THE MATTER OF TWO REAR COLLISIONS AT BAY RIDGE AND WOODLAWN STATIONS ON THE NEW YORK AND SEA BEACH RAILROAD, SEPTEMBER 2, 1895.

October 1, 1895.

From an examination on September 4 of the scene of the accident in the yard at Bay Ridge, and from an examination of the road from Bay Ridge to Coney Island, and of the rolling stock in these collisions, and

from the testimony given at the coroner's inquest, and statements of officials and employes of the company, the following are the substantial facts and circumstances attending these collisions:

On September 2, 1895, train No. 37, southbound, consisting of seventeen cars, scheduled to leave Bay Ridge for Coney Island at 3:11 P. M., was 14 minutes late in starting. It arrived at Woodlawn about 3:34, and stopped for about one-half minute unloading passengers. Nearly all of the passengers occupied the three rear cars. While standing at the station, engine No. 6, without engineer or fireman aboard, dashed into the rear of the train, crushing the end of the rear car, forcing the seats in the forward end into a mass, causing the forward end of the second rear car to telescope the rear of the third car, and crushing the smokebox castings of the engine. Portions of the wrecked cars and the cab of the engine were burned. The collision resulted in the serious injury of fourteen persons, two of whom subsequently died, forty-one others receiving slight injuries.

Engine No. 6 was used in the yard at Bay Ridge for switching service, and on this day, in charge of F. Jenson, engineer, Adam Ross, fireman, and W. Lohman, conductor, it coupled in behind train No. 37 in the Bay Ridge yard, and pushed it up the grade to the bridge crossing the Manhattan Beach Railroad track; it was there cut loose and train No. 37 proceeded toward Coney Island; engine No. 6 proceeded to back toward the Bay Ridge station, distant about one mile, on the southbound track; when it reached a point about 200 feet north of the Second avenue tunnel, it collided with the rear of a train of empty passenger cars which was being switched from the northbound to the southbound track. It appears from the testimony and statements, when the crew on engine No. 6 first discovered the rear car of this train, the train was rounding a curve 700 feet distant from the Second avenue tunnel; the train passed south, approaching engine No. 6, 300 feet, and engine No. 6 passed north, approaching the train 200 feet, when the collision occurred.

The crew of engine No. 6 testified that frequent applications of the engine brake were made coming down the grade, and that in every instance, except the last, it worked properly. They also testified that the speed of the engine was about five miles an hour at the Second avenue tunnel. Engineer Jenson testified that as soon as he saw the train he applied the steam driver brake, but that it failed to work; that he then reversed the engine and opened the throttle valve, and that by that time the collision occurred; that the pilot of the engine was forced under the rear car of the train, raising it up against the bottom of the cab, forcing the coal box and parts of the cab against the quadrant and boiler head, bending the quadrant support and causing it to buckle, preventing the use of the reverse lever; that the throttle lever rest and throttle stem were badly bent, and that this damage to the machinery made it impossible for him to shut off steam or to control the motion of the engine; the engine being in the reverse motion started toward Coney Island, the crew jumping off, coming into collision with train No. 37 at Woodlawn, as stated above.

Conductor Lohman testified that when the cars were first seen, at the Second avenue tunnel, he called Engineer Jenson's attention to them; that Jenson reversed the engine, and when a few feet from the switching

train he, Lohman, stepped off. Fireman Ross testified that at the same moment that Lohman stepped off, Jenson threw the reverse lever ahead.

Engine No. 6 was built by the Grant Locomotive Works about 1880 for elevated railway service. The tank for the water supply was placed over the boiler in front of the cab; coal was carried in a box on the deck of the engine, in the rear of the boiler head, inside the cab, leaving but a narrow space for the engineer and fireman. It was equipped with a pilot on each end and had the ordinary wooden cab; it had the old style of throttle lever attachment with thumb screw, quadrant in two parts, spaced and notched to allow the reverse lever to be changed and set; it had the modern pop safety valve, and the old style of spring balance and lever, and injectors for boiler supply from tank. The weight of the engine was about eighteen tons.

The cars in use on this line are open on the sides, about forty-eight feet long, of good strength in construction, and weigh about nine tons each. The rear car of the train that was switching sustained but little injury, such as a broken slat in the blinds, broken drake beam, hand rail slightly bent, and one pair of truck wheels derailed. The end sill of the car was not injured.

The cylinder of the steam brake on engine No. 6 was examined, and all parts were found in good condition; a small portion of light sediment was found, which would indicate that at some time the cylinder had been dry and hot.

It has been thought that if there had been telegraphic or telephonic communication with the station at Woodlawn, the collision there, or its results, might have been averted. In order to arrive at some positive conclusion as to this theory, an engine and crew of three men, one of whom was Conductor Lohman, was placed at the point where engine No. 6 was cut loose from train No. 37, on September 2, to back to Bay Ridge, with instructions to duplicate as near as possible just what had been done on September 2. This test showed that seven minutes and fifty-four seconds elapsed from the moment engine No. 6 started back until the order was sent (as it was on September 2), from Bay Ridge to ditch the engine at Coney Island. The schedule time of No. 37 to Woodlawn was nine minutes, but owing to the heavy train, it used one and one-half minutes more; allowing three minutes from Bay Ridge to the top of the grade, it used seven and one-half minutes from that point to Woodlawn. Engine No. 6 used seven minutes and fifty-four seconds from the top of the grade to the collision at Bay Ridge and back to Woodlawn. This leaves a leeway of twenty-four seconds between the arrival of No. 37 at Woodlawn and the collision at that point. Assuming that there was a telegraph or telephone station at Woodlawn, the collision would have occurred before an order could have been acted on. There is no siding or cross-over at this point, and under the circumstances there was not time enough to do anything more than was done by Police Officer Prout and the rear brakeman of train No. 37 in giving the alarm.

This is a double-track railroad, about six miles long, running from Bay Ridge to Coney Island. The track from Bay Ridge to Coney Island is designated as southbound, and from Coney Island to Bay Ridge, northbound. The station yard at Bay Ridge is protected by a semaphore signal on the northbound track; the station at Coney Island is pro-

tected by a semaphore signal on the southbound track. The tracks between these points are protected by nineteen flagmen—ample protection for this distance.

The primary cause of the collision at Woodlawn was the accident in Bay Ridge yard, crippling engine No. 6. All the facts and circumstances verify the statements of Engineer Jenson—that after the accident he did everything possible to control No. 6. There is no doubt, however, that if Jenson used ordinary care, and acted in accordance with the rules governing the movements of engines and cars in the yard limits, the terrible collision at Woodlawn would not have happened. One of two things occurred: He was either moving faster than five miles an hour, or he did not realize that the train that was being switched was approaching him at considerable speed, closing upon him rapidly. He delayed the use of the steam brake, and reversed his engine and applied steam too late. The first theory seems to be verified by the testimony of Hill and Barren, that they saw the engine coming down from Second avenue at a high rate of speed. From testimony and actual measurements, he passed 200 feet, after sighting the cars 700 feet distant. It is evident that, at a speed of five miles an hour, if he reversed his engine when he saw the train, he would have stopped in less than 50 feet. The fact that he passed over 200 feet is conclusive that he delayed the use of the appliances under his control for stopping. The fact that the brake on the engine was examined after the accident and found in good condition, and the further fact that it had been lubricated and used several times on the trip down the grade, lead to the conclusion that Jenson delayed the emergency service.

CONCLUSIONS AND RECOMMENDATIONS.

The Board is of the opinion that the lack of ordinary care and judgment on the part of F. Jenson, engineer of engine No. 6 on the New York and Sea Beach Railroad, on the 2d of September, 1895, was the direct cause of the accident at Bay Ridge, and the indirect cause of the collision at Woodlawn on that date.

The Board recommends that a crossover from the southbound to the northbound track, with trailing points, be put in the track, at or near the bridge crossing the Manhattan Beach tracks, to enable the "helper," or switching engine, to cross from the south to the northbound track, the movements of which will then be controlled by signals at this point, and by a semaphore signal [illegible]ching Bay Ridge station.

The Board also recommends that all trains of six cars or more, when switched from the north to the southbound track to go into the Bay Ridge depot shed by gravity, shall have a man on each end of the train for signaling and braking purposes.

ACCIDENT INQUIRIES.

Boston and Albany.

August 11, 1895.—At East Albany an employe was struck by an overhead bridge.

On inquiry as to whether the bridge was protected by safety guards, The company replied as follows:

"Answering your letter of August 27, in relation to protection at Herrick street bridge, East Albany. At the time of the accident referred to, August 11, there were no guards at this bridge, but the material for the same has been ordered, and workmen are now engaged in putting them up.

"Yours truly,
"W. R. ROBERTSON,
"*General Superintendent.*"

Buffalo, Rochester and Pittsburg.

November 28, 1894.—Engine ran on freight house siding at Springville, caused by switch leading from main track being left open, or switch lever not being down, and switch flopped around when train ran out, causing the derailment of engine and two cars. Bartholomew Leonard was killed.

On inquiry as to who was at fault, the company replied as follows:

"Referring to your letter of December 19, 1894, with reference to the accident at Springville, November, 28, 1894, in which Engineer Bartholomew Leonard was killed. The evidence in the case shows that the switch was misplaced by some person or persons unknown, as about thirty minutes before the train that was wrecked came there, an engine going East passed over the switch in safety, and everything points to the fact that the switch at that time was all right. The switch was in perfect order, as shown by the evidence given at the inquest. Also by investigation made by the Coroner. We are unable to locate the guilty party by whom the switch was misplaced, and, of course, no discipline administered in view of the facts above stated. We are doing all we can to find out who the guilty party is, and as soon as we are able to get any definite information, the same will be imparted to you.

"Yours truly,
"R. G. MATHEWS,
"*General Superintendent.*"

July 12, 1894.—An accident occurred at Buffalo, caused by derailment in which an employe was injured. On inquiry the company sent the following reply:

"Replying to yours of the 8th inst., requesting further information in regard to the accident at Hamburg Turnpike, Buffalo, July 12, 1894, in which Chester McVeen was injured, would say that this accident occurred on the tracks of the Buffalo Creek Railroad, and you will have to communicate with Mr. E. F. Knibloe, general agent of that company, whose office is in this city, for information as to who was at fault, and discipline administered.

"Yours truly,

"R. G. MATHEWS."

Reply of the Buffalo Creek Railroad:

"Replying to your favor of the 11th inst., the accident referred to was due to the negligence of our track foreman in leaving a track jack upon the track, which caused the derailment. The foreman has been discharged.

"Yours truly,

"E. F. KNIBLOE."

July 21, 1894.—A wreck occurred at West Seneca, caused by a broken wheel. An employe was injured.

On inquiry the company replied as follows:

"Replying to yours of the 8th, asking for additional information in regard to the accident at West Seneca, July 21, 1894, would advise, that the wheel that broke and caused the wreck was made by the Rochester Car Wheel Works. The flange and tread were in good condition.

"Yours truly,

"R. G. MATHEWS."

DELAWARE AND HUDSON CANAL COMPANY.

September 11, 1894.—At Putnam Station, two persons killed, and one injured. On inquiry, the company replied as follows:

"Yours of the 19th ult. has been before me for some time, for the reason that I was unable to reply without further observation. I find that the view of cars from the highway referred to is entirely unobstructed thirty feet from the crossing.

"Yours truly,

"C. D. HAMMOND,
"*Superintendent.*"

September 15, 1894.—East of Glenville, an employe was killed in a collision. On inquiry as to how the collision was caused, the company replied as follows:

"Replying to your favor of the 1st inst., regarding the collision near Glenville, September 15, would say the collision was the direct result of disobedience of orders on the part of Engineer Kniskern, who was immediately discharged from the service.

"Yours truly,

"C. D. HAMMOND,
"*Superintendent.*"

December 3, 1894.—Two miles north of Port Henry, passenger train No. 4 became derailed, killing two employes, and injuring ten passengers.

Commissioner Rickard made an investigation of the accident, and submits the following report:

December 14, 1895.—The derailment at Port Henry, on December 3, resulting in the death of two persons, and serious injury to several others, has been the subject of searching inquiry by the heads of the several departments of the Delaware and Hudson Canal Company, and by this Board, in order, if possible, to ascertain the primary cause thereof.

No positive reason was found to which the derailment of the train could be credited. Several theories, however, which have been suggested in relation thereto have been considered:

"*First.* That the outside rails on the curve did not have proper elevation to ease a train running forty miles per hour around a six degree curve.

"*Second.* That the type of engine on the train, a 'Mogul,' with three pair of drivers, all flanged, and a pony truck, does not ride such curves easily and with safety."

As to the first, the statements of the roadmaster and section foreman were positive as to the proper elevation leading from the tangent around the curve.

As to the second, there is considerable difference of opinion among expert railroad men.

The subject of safety and economy in the use of locomotives, with three pair of drivers, all flanged, or the middle pair blind, with a broad tread, has for several years been a general topic of debate by the master mechanics in their annual conventions, without, however, arriving at a unanimous decision.

The locomotive on this train was equipped with three pair of drivers, all flanged (fourteen feet wheel base) and a pony truck with steel tired wheels. Weight on first pair of drivers, 29,000 pounds; weight on middle pair of drivers, 44,000 pounds; weight on rear pair of drivers, 34,000 pounds; with ample space between hubs and driving boxes.

The engineer and fireman testified that before entering upon the curve, they felt a jerk from the rear; the engineer immediately shut off steam, and in a moment he felt the engine was off the rails. The fireman testified that when he felt the jerk from the rear, he raised from his seat, looked back and distinctly saw the end of the first car headed for the lake, and in an instant the tender was torn from the engine and ran into the lake; that the locomotive passed on about 600 feet, south; that when it stopped, the truck was on the rails and all the drivers off.

I made a careful examination of the track and engine immediately after the accident, and of the wrecked equipment after it was taken from the lake, and found nothing that, in my judgment, would have caused this accident.

The testimony of the fireman seems conclusive that—the first car in the train first left the rails, and that the construction of the engine was not the primary cause of the derailment.

M. RICKARD,
Commissioner.

July 18, 1895.—At the DeWitt street crossing, Albany, a man was struck by a train and severely injured.

Commissioner Rickard made an examination of the crossing and reported as follows:

"This crossing was protected by a flagman at the time of the accident. Gallup, the injured man, was warned by the flagman that a train was approaching, and that he must not try to cross the track. He did not heed the warning.

"M. RICKARD."

DELAWARE, LACKAWANNA AND WESTERN.

September 29, 1894.—South of Norwich two persons were killed on a highway crossing. On inquiry the company replied as follows:

"Replying to your favor of yesterday, would say that the crossing was not protected by gates or flagmen. The view of an approaching train from the south, the direction from which this train was coming, is entirely unobstructed for a mile or more.

"Yours respectfully,

"A. C. SALISBURY."

DUNKIRK, ALLEGHENY VALLEY AND PITTSBURG.

July 23, 1894.—An accident occured at Fredonia, in which two persons were injured. On inquiry the company replied as follows:

"Replying to your favor of August 8th, which has been delayed by my absence, I have to advise that the accident at Fredonia occurred in this manner: A freight train had a meeting point with the special at Fredonia; they approached Fredonia station expecting to meet this train at a point south of the curve; they could see the train on the side track and the engineer of the freight train gave the engineer of the special signal to go ahead. Working on his signal he commenced using steam and did not know switch was turned wrong on the track leading to canning factory until he was right upon it. This switch did not have a target, but the road has been running for the past twenty years without targets, and the engineer has been on the road some time, and running without them; however, I have to advise you that targets have been ordered for all switches. The brakeman of the freight train was sent south to flag the special train, while the freight train backed in on side track, and when he came to his train he threw the canning track switch, a switch he had nothing to do with, and we have not been able to account for his doing it. We think he must have been confused, thinking he was closing switch for freight train. This man has been discharged. All switches are locked for main track. If there is any further information I can give you in regard to this, I would be glad to do so.

"Yours respectfully,

"C. H. KETCHUM,

"*Superintendent.*"

FITCHBURG.

August 8, 1895.—West bound passenger train No. 27 struck train at highway crossing about one half mile east of Johnsonville, killing a Mr. John Akin and a boy named Arthur Hunt. On inquiry the company replied as follows :

"The reason why the approaching train from the east cannot be seen from the point in the highway where the Hunt boy got on the wagon, is the general conformation of the ground and the growing corn, the houses and little outbuildings, large poplar stumps, etc. The highway is much lower and, indeed, the ascent from the highway to the houses is sharp and pronounced.

"M. P. SNYER,
"*Train Master.*"

LAKE SHORE AND MICHIGAN SOUTHERN.

February 7, 1895.—At Buffalo two persons injured in collision at grade crossing. On inquiry the company replied as follows:

"Replying to your favor of the 11th inst. for further reference to the accident that occurred at Elk street crossing February 7, which resulted in the injury to Mrs. Sarah A. Boorman and Mrs. Catherine M. Lawson, who were passengers in motor car No. 119, which was struck by a train of coal cars handled by our engine No. 92, would inform you that from statements we have taken in this case this accident occurred as follows : Our engine No. 92 was puhsing seventeen cars of coal from lower yard toward Elk street. Engine was headed south and was at north end of train, and conductor was on head car furthest from the engine, and brakeman was on fourth or fifth car from engine where he could be plainly seen by both conductor and engineman.

"Train was on track No. 6, the most easterly track crossing Elk street. When head end of train was at or near Fulton street the flagman on Elk street exchanged signals with our conductor, giving the former to know that the train was going to cross Elk street. The trolley cars, which were three in number, No. 119 being the third or last one, were then at west side of crossing, and the two motor conductors from first and second car were part way over the crossing going east. The trolley cars started hard on account of snow on track, and were coming very slowly. The crossing flagman told the conductor to look out, as there was a train coming up. He also waved his flag toward the motorman on head car and called to him, 'Keep back, there's a train coming.' Neither conductor nor motorman paid any attention whatever to the crossing flagman. The latter ran back to No. 6 track, and seeing our train still coming again warned the motorman, but without effect. The conductor on the first motor car could see the train coming, but made no effort to stop his car, but requested a policeman (Henry Farrel) to stop the train. Farrel was walking west on south side of crossing, and had got across No. 6 track, when his attention was called to the train (for the first time) by the conductor. He had seen the flagman before this in the middle of the crossing, waving his flag and shouting. When he turned back to signal the train he saw the man on head car was swinging his arms and doing all he could to stop.

"The next track west of the conductor (No. 5), was full of cars, and conductor could not see the street cars until they began to cross his track. He at once gave signals to stop. Signals were repeated to engineman by brakeman, and engineer applied air brake on engine and reversed his engine; made a quick stop, and would have stopped train but for its breaking in two. The pin broke between sixth and seventh car from engine, allowing six head cars to separate from train. Head car struck the rear end of street car No. 119, knocking it off the track and crosswise of the street. Mesdames Boorman and Lawson, who were sitting on south side of street car, near centre, were thrown to the floor and injured, as heretofore reported.

"While this explanation is somewhat lengthy, I have thought best to let you have all the details in connection with the matter.

"Yours truly,

"W. H. CANNIFF,

"*General Superintendent.*"

July 8, 1895.—Four miles east of Westfield two persons were killed on highway crossing. On inquiry the company replied as follows:

"Replying to your favor of the 12th inst., for further information in regard to the accident which resulted in the death of Messrs. Ellis and Haviland, at the crossing four miles east of Westfield, July 8, 1895, would reply that a train can be seen approaching the crossing from either direction one mile away by a person in a wagon fifty feet from the track in the centre of the highway. A fair estimate of the number of vehicles passing over the crossing during the day would be from twenty to twenty-five. From 5:50 A. M. to 11:20 A. M., August 19, four vehicles each way passed over this crossing.

"Yours truly.

"W. H. CANNIFF,

"*General Superintendent.*"

LEHIGH VALLEY.

October 8, 1894.—At Manchester five persons were injured in a collision. On inquiry the company made the following reply:

"In reply to your favor of the 17th inst., I find upon careful investigation that the first section of train No. 21 was standing at Manchester Station. The flagman was about one and one-half car lengths from the rear end of the train when the accident occurred. The tail lights were burning and in place. The first section arrived at Manchester at 8:37 P. M.—the accident occurred at 8:42. From all the information we can obtain the accident was due solely to the fact that the engineer of the second train, Mr. Gilroy, ran his train at a very high rate of speed, far beyond the schedule, from East Rush to Manchester. He claims that he was only running six or eight miles an hour when he entered Manchester yard. The statements of all the witnesses prove that he was running at a much higher rate of speed. As I said before, we consider him alone to blame, and he has been dismissed from the service of the company.

"Yours truly,

"ROLLIN H. WILBUR,

"*General Superintendent.*"

October 26, 1894.—At Batavia an employe was injured in a collision. On inquiry the company replied as follows:

"I am in receipt of your favor of November 5, asking for further particulars in regard to the accident between freight trains 540 and extra 261, both east bound, at Batavia, on October 27. This train was a double header with fifteen cars, with air in working order on the head end. The night was one of the worst ever seen in that region, on account of the impenetrable fog. The engineman of the head engine did not shut off on approaching yard limits at Batavia, claiming that he had lost all knowledge of his location. The engineman of the following engine shut off steam and cut his air in when he found train was proceeding at a dangerous rate of speed, and finally put his engine in reverse motion. The brakemen were all out on the train, and it was only when passing through bridge near Batavia that they were able to locate their position. Engineer McCarthy, of the leading engine, was discharged immediately after the accident.

"Yours truly,
"ROLLIN H. WILBUR,
"*General Superintendent.*"

May 17, 1895.—At Tonawanda an employe injured in a collision. On inquiry the company replied as follows:

"I have your letter of May 28th last, asking further information in reference to the accident at Tonawanda, May 17, 1895, in which Brakeman Edgar Burnes was injured.

"Burnes, at the time of his injury, was breaking on a westbound freight train which broke into three parts, and the rear portion of it ran into a New York Central train. The damage to the equipment was only about $10, but the force of the concussion threw Brakeman Burnes off the top of the train. The accident would not have occurred, but for the fact that a trainman, who was standing on the ground and giving 'back-up' signal to another train on an adjoining track, was mistaken by our men to be one of our own, and the 'back-up' signal was acted upon by our men. No blame attachable to the company on account of Burnes' injuries, which fact is admitted by himself. Injuries consisted of a fracture of two ribs on right side and slight injury to his back. The accident having been caused by misjudgment of signals, it was not considered advisable to administer any discipline.

"Yours truly,
"ROLLIN H. WILBUR,
"*General Superintendent.*"

June 1, 1895.—At East Buffalo one employe killed and one injured in a boiler explosion. On inquiry the company made the following reply:

"I have your letter of the 5th inst., asking further information in regard to the accident at East Buffalo, on June 1, 1895. Would say that engine No. 564 was a yard engine, built by Baldwin & Co., in February, 1891; cylinders, 20 x 24 inches; three pairs of drivers, diameter of centres, 44 inches; no engine truck; firebox, 42 inches wide, 96 inches long. The sheets which bulged have been in service since the engine was built. The sheets did not fracture, but bulged and pulled from

the stay bolts. The bulging occurred the entire length of one side of the box, from the mud ring to the seventh row of stay bolts—101 stay bolts were found to be broken. The steel in the side sheet of the firebox was made by Otis—thickness, 5/16 inch. The steel in the outside sheet was made by Worth Brothers—thickness, 3/8 inch.

"Yours truly,

"ROLLIN H. WILBUR,

"*General Superintendent.*"

After receiving the above, Commissioner Rickard sent the following:

"In your letter of the 5th inst., in answer to an inquiry as to condition of firebox of engine 564 on June 1, 1895, you say 'The bulging occurred the entire length of one side of the box, from the mud ring to the seventh row of stay bolts—101 stay bolts were found to be broken.'

"The fact that such a large number of stay bolts were broken shows that proper supervision had been neglected by someone in charge of the engine. I would suggest that some system of testing stay bolts should be put in practice at once.

"Yours respectfully,

"M. RICKARD,

"*Commissioner.*

June 7, 1895.—Near Burdette, a man injured at highway crossing. On inquiry, the company made the following reply:

"In reply to your favor of the 12th inst., asking for further information in regard to the accident at Burdette, on June 7, 1895, in which David Cairns was injured, I will say that the view limits at Cass Road Crossing, east of Burdette, where the accident occurred, are as follows:

"*First.* Standing on the highway fifty feet south of eastbound track, a westbound train can be seen 1,700 feet from the crossing; an eastbound train can be seen 1,630 feet from the crossing.

"*Second.* Standing on the highway fifty feet north of westbound track, a westbound train can be seen ninety feet from the crossing; an eastbound train can be seen twenty-six feet from the crossing.

"*Third.* Standing on the highway 135 feet north of westbound track, a westbound train can be seen 1,175 feet from the crossing.

"*Fourth.* Standing on the highway 180 feet north of westbound track, an eastbound train can be seen 1,650 feet from the crossing.

"All of the above views are taken standing in the centre of the traveled road.

"Mr. Cairns was going south and was struck by a westbound train.

"I inclose blue print showing location of the crossing.

"Yours truly,

"ROLLIN H. WILBUR,

"*General Superintendent.*"

LONG ISLAND.

June 9, 1895.—At Farmingdale a passenger was killed. He was sitting at the door of the baggage car with his feet hanging out of the car door. When the train approached a station his feet come in contact with the freight platform. He was thrown from the car and received

injuries which caused his death. Commissioner Rickard sent the company the following letter:

"In view of the accident that occurred at Farmingdale, June 9, 1895, in which a passenger was killed, and that many of the stations on your road are situated similar to the one at Farmingdale, we would suggest that trainmen be instructed to prohibit passengers from riding in a similar position to which this one was killed.

"Yours truly,

"M. RICKARD,

"*Commissioner.*"

NEW YORK AND NEW ENGLAND.

August 21, 1895.—At Reynoldsville Summit five persons injured in a collision caused by a misplaced switch. On inquiry the company replied as follows:

"In reference to yours of the 27th, regarding the accident at Reynoldsville Summit, August 21.

"I quote herewith from the letter of Superintendent Fennell, covering investigation of the accident referred to:

"'On leaving West Pawling conductor of train 208 was on engine; went there for the purpose of being on hand to see about cutting out pushing engine at Reynoldsville Summit. When 208 pulled out of West Pawling engineer received an all right signal from the flagman. After the flagman had given his signal he took his water can and ran alongside of track four or five cars ahead of caboose to get some water from a spring located about sixty feet from track. In returning from spring he says he slipped from a plank that went over the ditch and fell, and was then unable to catch the train. He then got on engine of 126 and told the engineer of 126 that he was the flagman of 208 and wanted to get off at Reynoldsville Summit, as his train would take siding there for 126.

"'When 126 arrived at a point about three-fourths of a mile west of the west end of Reynoldsville Summit siding, the flagman says he told the engineer to look out for siding as it was apt to be wrong on account of nobody being on rear end of 208, and says engineer acknowledged his understanding by nodding his head. He (the flagman) discovered that switch was wrong when 126 was within ten car lengths of it, and he called to the engineer, who, he says, had paid no attention to what he said in regard to switch being wrong. This statement is corroborated by the fireman.

"'Engineer Allen, on being questioned, said that the flagman said something, but he did not understand what it was. Engineer Allen says that he could see the target on the switch about forty car lengths. On being asked the question why he did not stop, he said he did not see the target until they were within eight or ten car lengths of the switch, for the reason that he was not looking. If Engineer Allen had been attending to his duties he could see the target at least fifty car lengths, as it was broad daylight and nothing to obstruct his view of it.'

"Admitting that this statement is correct, that he did not see the switch until within eight or ten car lengths of it, the fact remains that train 208 stood on the side track fully twenty car lengths from the switch itself.

"Engineer Fred Allen has been employed by us as an engineer on

passenger trains for at least fifteen years, and was considered, up to this time, one of our most careful enginemen.

"We have placed the responsibility for the accident and have dismissed the following employes for same:

"Engineer Fred Allen, Conductor C. Fresher, flagman of the pushing engine, middle brakeman of Conductor Fresher's train, flagman of Conductor Fresher's train, and the head brakeman of train 208.

"Reference was made to conductor's intention regarding the pushing engine, and for your information would say that two engines are used on our freight trains between Hopewell and Reynoldsville Summit, the second engine being cut out at that point.

"Injuries to passengers were only of a trifling nature, and the damage to the equipment of passenger train consisted only of forward end of baggage car being broken in.

"If there is any further information which I have not covered in this letter, I should be pleased to furnish it on request from you.

"Yours truly,
"F. E. DEWEY,
"*General Superintendent.*"

NEW YORK, LAKE ERIE AND WESTERN.

December 7, 1894.—At Lakewood three persons were killed at a highway crossing. On inquiry the company replied as follows:

"Your favor of February 5, desiring further information in regard to accident at Lakewood, N. Y., December 7, 1894, by which three persons were killed.

"Please find attached statement of our division engineer, giving accurate information from measurements.

"Hoping this will be satisfactory, I remain, very respectfully,
"J. S. MATSON,
"*Superintendent.*"

"Your letter of February 9, 1895, with reference to the injury to Myron Sherman, struck by train 12, December 7, at a highway crossing west of Lakewood. I return you herewith letter from the Board of Railroad Commissioners of the State of New York, and in reply I would say that a person standing on the highway at a point 30 feet from the track north of the same can see an eastbound train approaching for 900 feet and a westbound train approaching for 2,800 feet. Standing on the highway 30 feet from the track south of the same. a person can see an eastbound train approaching 1,500 feet, and a westbound train approaching for 2,800 feet. There is no obstruction to the view of west bound trains approaching this crossing by a person standing at any distance from the track, as you can see east as far as the overhead bridge at Lakewood, which is about 2,800 feet from the crossing. The view of eastbound trains is somewhat obstructed by a cut just west of the crossing, but by using a small amount of care there is no necessity for a person being struck at this point.

"Respectfully,
"J. M. LARNED,
"*Division Engineer.*"

December 10, 1894.—At Jamestown, passenger injured. On inquiry the company replied as follows:

"Your favor of February 5, asking in behalf of your Board further information in regard to accident at Jamestown, December 10, 1894, received. A careful investigation has failed to locate the party at fault in allowing car to project over main track. The track was used by different trains by the switch engine, and there was a high wind blowing, therefore no action has been taken in the way of discipline.

"Respectfully yours,

"J. S MATSON,

"*Superintendent.*"

December 17, 1894.—At Friendship, one person killed on crossing. On inquiry the company replied as follows:

"I am in receipt of your favor of the 7th inst., in which you ask for further information in regard to accident at Friendship, December 17, 1894, in which Samuel Cornwall was killed.

"From your inquiry in this matter I would infer that you are under the impression that the accident occurred at the highway crossing. To make this matter clear and show the exact situation, I have had prepared a tracing showing the station grounds at Friendship, together with the track, buildings, etc., in their proper location, and the point where Cornwall was killed. The point of accident, you will note, is 35 feet east of the east end of the station building, which is 300 feet east of the public highway. The view along the track west, or in the direction from which this train was coming, is clear for 2,000 feet, whereas the view in the opposite direction is 800 feet, the only obstruction being the curvature of the road.

"If you desire any further information we will be pleased to furnish it.

"Yours truly,

"C. R. FITCH,

"*General Superintendent.*"

March 11, 1895.—At Wellsville, three employes injured, caused by a tire breaking on driving wheel, stripping engine of her siderods. On inquiry the company replied as follows:

"We have your favor of the 26th inst., asking for further information in regard to the accident at Wellsville, March 11, 1895, caused by breaking of tire on engine 590. This was a consolidation engine, with 48-inch wheels; and as it is equipped with brake shoes, adapted to wearing of the tire when it does not come in contact with the rail, it has not been necessary to have these tires turned since April, 1893. The thickness at the time it broke was 1 17-16 inches full, with a wearing of 4-16, leaving the thickness at the tread 1 3-16 full.

"Yours truly,

"C. R. FITCH,

"*General Superintendent.*"

May 12, 1895.—At Almond, two persons killed and two injured, in a derailment, caused by a broken wheel. On inquiry the company replied as follows:

"I have your valued favor of the 17th inst., regarding accident at

Almond, May 12, 1895, and in reply would state that this accident was caused by a broken wheel under Swift Refrigerator Line Car No. 3,155. This wheel was marked 'Griffin, Chicago, August 16, 1894, No. A 100 30.' I have asked the Swift people how long this wheel had been in use, and will advise you as soon as I receive reply.

"Very truly,

"C. R. FITCH,

"*General Superintendent.*"

NEW YORK CENTRAL AND HUDSON RIVER.

April 10, 1895.—At Medina, one person killed and one injured. On inquiry the company replied as follows:

"Replying to your favor of the 26th inst., asking for further information in regard to accident that occurred at West Street Crossing, Medina, April 10, in which Johanna Lahey was fatally injured and John Burns slightly injured.

"These persons were about to cross our tracks from south to north at the point mentioned, and were obliged to wait for a freight train which was passing west at the time. Engine No. 579, which had arrived from the West, drew in on the branch track, which was the south track, and engine was cut off from the train and was running down the branch to the water tank, which is located east of the crossing referred to. The engine was running slowly, with headlight burning and the engine bell ringing. As soon as the caboose of the freight train had passed, Miss Lahey and Burns stepped onto the branch track, in the act of crossing, and were struck by engine No. 579.

"There was nothing to obstruct the view from the crossing to where engine No. 579 was approaching, and, as stated above, the engine bell was ringing and the headlight burning. There was good moonlight at the time.

"Yours truly,

"E. VAN ETTEN."

NEW YORK, NEW HAVEN AND HARTFORD.

March 21, 1895.—At South Vernon, employe injured by being struck by overhead bridge. On inquiry, the company replied as follows:

"Replying to your letter of March 26th, asking for further information relative to accident to James Roberts, freight brakeman, who was injured by coming in contact with overhead bridge at South Mount Vernon, March 21st, beg to advise that this bridge was fully protected by bridge guards, and examination immediately after the accident showed them to be in proper condition and position.

"Yours truly,

"O. M. SHEPARD,

"*Superintendent.*"

NORTHERN CENTRAL.

January 23, 1894.—At Havana a man was killed in a derailment, caused by a broken wheel. On inquiry the company sent the following reply:

"In reply to your letter of the 8th inst., asking for further information

in relation to broken wheel in wreck at Havana, July 23, 1894, would reply that the wheel was cast at the Pennsylvania Railroad Foundry, Altoona, Pa., June 5, 1893, and was placed under the car at Harrisburg, July 13, 1893. The flange and tread were observed and found to be very little worn, the wheel having been in service a comparatively short time. The old crack in the wheel was from the wheel fit-out, and the wheel showed evidence of having been heated from too long application of the brakes. The person setting the brakes on this car was Brakeman Wright, who was killed.

"Yours truly,

"SPENCER MEADE,

"*Superintendent.*"

MANHATTAN.

September 17, 1894.—Passenger killed by jumping from the train. On inquiry the company made the following reply:

"In response to your letter of the 1st inst., requesting further information in relation to accident to Charles Heckmann, at Eighth avenue, between One Hundred and Tenth and One Hundred and Eleventh streets, on the 17th ulto., I have to say that there are three chains across the front and rear platforms of our trains, as well as the side gates. The front and rear doors of our trains are kept locked at all seasons of the year, except in oppressively hot weather, when, at the earnest request of numerous passengers, we allowed them to remain open.

"The accident did not occur at the front or rear end of the train, but at the rear end of the second coach of a five-car train. The only witness, a passenger, states that the man jumped over the car-gate so quickly that neither the passenger sitting beside him nor the trainman on duty between the second and third car saw anything of the occurrence. (This could readily happen if our employe happened to be looking the other way.)

"The witness could not give us any information which would lead to the identification of the train, consequently we have been unable to interrogate the trainmen in charge of the specified train and platforms. All the men, however, passing that point at the time at which the accident is supposed to have occurred, have been interviewed, but they all deny any knowledge whatever of the occurrence.

"Respectfully yours,

"F. K. HAIN,

"*Second Vice-President and General Manager.*"

WESTERN NEW YORK AND PENNSYLVANIA.

July 2, 1895.—At Tuscarora an employe killed in a derailment On inquiry the company replied as follows:

"I beg to acknowledge receipt of yours of August 26th, asking to be informed as to the condition of track at point of derailment, and also if any examination was made of the engine hauling the train which had accident at Tuscarora, July 2d, and in reply thereto would say that the track in question was in the very best condition. We can furnish you, if necessary, with a blue-print photograph, taken immediately after the accident and before any work whatever had been done on the track.

"As to the engine, I would say that a very careful examination was made and that no cause was found for the accident. The engine had been recently thoroughly overhauled at our shops at Olean and was on its third trip after such overhauling.

"A few miles back from the point where the accident occurred it passed around a series of exceedingly sharp curves with entire safety, so there was evidently no stiffness in the trucks or running gear.

"Both track and engine were in the very best of condition.

"Yours truly,

"R. BELL,

"*General Superintendent.*"

WEST SHORE.

September 12, 1894.—At Clyde, passenger injured in a collision. On inquiry the company replied as follows:

"Replying to your letter of October 1, would say that the accident at Clyde, September 12, was caused by the negligence of the westbound engineer, who has been dismissed from the service.

"Yours truly,

"J. D. LAYNG,

"*General Manager.*"

LENGTH OF STEAM RAILROADS.

ACTUALLY BUILT AND IN OPERATION JUNE 30, 1895.

Small capitals indicate lessees; indentations indicate leased or operated lines.

Name of Company.	Miles in New York State.
Addison and Pennsylvania	10.50
Allegany and Kinzua	19.00
Bath and Hammondsport	10.00
BOSTON AND ALBANY	39.30
Hudson and Chatham (owned)	17.33
BROOKLYN, BATH AND WEST END	6.80
South Brooklyn Railroad and Terminal	1.00
Brooklyn and Brighton Beach	7.50
Brooklyn and Rockaway Beach	3.20
Buffalo, Attica and Arcade	19.30
Buffalo Creek	5.82
Buffalo Creek Transfer	1.10
BUFFALO, ROCHESTER AND PITTSBURG (owned)	166.18
Lincoln Park and Charlotte (owned)	10.30
Perry	1.03
CATSKILL MOUNTAIN	15.75
Cairo	3.77
CENTRAL VERMONT:	
Ogdensburg and Lake Champlain	118.00
Saratoga and St. Lawrence	8.50
Central New York and Western	62.74
CHATEAUGAY	18.01
Chateaugay Railway	38.89
Plattsburgh and Dannemora	15.92
Clove Branch	8.26
Connecting Terminal	1.00
COOPERSTOWN AND CHARLOTTE VALLEY	4.51
Cooperstown and Susquehanna Valley	19.48
Crown Point Iron Company	12.84

Name of Company.	Miles in New York State.
DELAWARE AND HUDSON CANAL COMPANY:	
Adirondack	56.95
Albany and Susquehanna	142.59
Cherry Valley, Sharon and Albany	21.04
Lackawanna and Susquehanna (owned)	17.65
New York and Canada and leased lines	150.59
Rennsselaer and Saratoga and leased lines	155.15
Schenectady and Duanesburgh	13.79
Schenectady and Mechanicville (owned)	9.93
Dansville and Mount Morris	15.28
DELAWARE, LACKAWANNA AND WESTERN:	
Cayuga and Susquehanna	34.41
Greene	8.10
New York, Lackawanna and Western	207.79
Oswego and Syracuse	34.98
Syracuse, Binghamton and New York	81.00
Utica, Chenango and Susquehanna Valley	97.41
Valley	11.64
ELMIRA, CORTLAND AND NORTHERN	118.70
Canastota and Northern	20.73
FALL BROOK	15.00
Penn Yan and New York	7.07
Syracuse, Geneva and Corning	57.75
FITCHBURG	89.57
Saratoga and Schuylerville Branches	25.52
Troy and Bennington Branch	5.04
Fonda, Johnstown and Gloversville	26.17
Genesee and Wyoming Valley	16.16
GRAND TRUNK:	
United States and Canada	22.18
Greenwich and Johnsonville	14.65
Island	.14
Jamestown and Lake Erie	23.85
Kanona and Prattsburgh	11.44
Keeseville, Ausable Chasm and Lake Champlain	5.64
Kinderhook and Hudson	16.23
Lake Champlain and Moriah	7.66
Lake Shore and Michigan Southern	79.71
Lebanon Springs	51.18
Lehigh and Hudson River	14.50
LEHIGH VALLEY (RAILROAD):	
Hayt's Corners, Ovid and Willard	3.82

Name of Company.	Miles in New York State.
Lehigh Valley (railway)	280.85
Rochester and Honeoye Valley	15.94
Southern Central	115.26
Waverly and State Line	.41
Lima and Honeoye Falls	4.46
Little Falls and Dolgeville	10.32
LONG ISLAND	287.83
Brooklyn and Jamaica	9.58
New York, Brooklyn and Manhattan Beach	18.24
New York and Coney Island	2 27
New York and Rockaway	5.40
North Shore Branch	30.29
Prospect Park and Coney Island	7.38
Malone and St. Lawrence	12.10
Marine	.33
Middleburgh and Schoharie	5.53
Middlesex Valley	29.31
Mount McGregor	10.50
Newburg, Dutchess and Connecticut	58.84
NEW JERSEY AND NEW YORK	20.90
New Jersey and New York extension	2.37
New York Central, Hudson River and Fort Orange	.60
NEW YORK CENTRAL AND HUDSON RIVER	819.45
Albany Branch	11.04
Athens Branch	6.16
Buffalo Creek Branch	1.29
Carthage and Adirondack	42.94
Dunkirk, Allegheny Valley and Pittsburg	42.30
Fuller's Branch	5.07
Port Morris	1.85
New York and Harlem	126.96
New York and Putnam	57.16
Rome, Watertown and Ogdensburg	410.46
Rockland Lake Branch	1.15
Niagara Falls Branch	8.57
Carthage, Watertown and Sackett's Harbor	28.81
Oswego and Rome	26.89
Mohawk and Malone	181.50
Utica and Black River	150.38
New York and Mahopac	7.09
Mahopac Falls Branch	4.05
Tivoli Hollow	1.23

Name of Company.	Miles in New York State.
Troy and Greenbush	6.00
Spuyten Duyvil and Port Morris	6.04
Wallkill Valley	32.88
West Shore	451.67
Gouverneur and Oswegatchie	13.05
NEW YORK, CHICAGO AND ST. LOUIS	68.07
NEW YORK, LAKE ERIE AND WESTERN	504.00
Avon, Geneseo and Mt. Morris	17.70
Buffalo, Bradford and Pittsburg	7.84
Buffalo, New York and Erie	140.25
Buffalo and Southwestern	66.36
Elmira and State Line	6.50
Goshen and Deckertown	11.64
Lockport and Buffalo	15.12
Middletown and Crawford	10.22
Montgomery and Erie	10.43
New York, Pennsylvania and Ohio	49.24
Northern Railroad of New Jersey	5.82
Long Dock R. R.	.79
Rochester and Genesee Valley	18.40
Suspension Bridge and Erie Junction	24.01
New York and New England	30.47
NEW YORK, NEW HAVEN AND HARTFORD	14.04
Harlem River and Port Chester	11.50
NEW YORK, ONTARIO AND WESTERN	318.77
Ontario, Carbondale and Scranton	2.91
Rome and Clinton	12.78
Utica, Clinton and Binghamton	31.30
Wharton Valley	6.80
New York and Rockaway Beach	13.93
New York and Sea Beach	6.00
NEW YORK, SUSQUEHANNA AND WESTERN:	
Campbell Hall Connecting	3.78
Middletown, Unionville and Water Gap	13.90
Niagara Junction	6.94
Northern New York	56.50
NORTHERN CENTRAL (of Pennsylvania):	
Elmira and Lake Ontario	99.61
Elmira and Williamsport	6.50
Orange County	10.70
Otis Elevating Railway	1.35
Owasco River	.50

Name of Company.	Miles in New York State.
PHILADELPHIA, READING AND NEW ENGLAND	57.60
Dutchess County	12.40
Hartford and Connecticut Western	43.75
Port Jervis, Monticello and New York	41.05
Poughkeepsie and Eastern	34.99
Rochester, Charlotte and Maniton	7.50
Saranac and Lake Placid	9.98
Schoharie Valley	4.38
Silver Lake	6.86
Skaneateles	5.00
Southfield Branch	1.00
STATEN ISLAND RAPID TRANSIT	10.90
Staten Island	12.70
Sterling Mountain	7.60
ULSTER AND DELAWARE	74.00
Kaaterskill	7.50
Catskill and Tannersville	1.00
Stony Clove and Catskill Mountain	14.30
Delaware and Otsego	8.79
Hobart Branch	3.61
Unadilla Valley	14.83
Wellsville, Coudersport and Pine Creek	10.12
Western New York and Pennsylvania and leased lines	328.18
Total	8,032.19

INSPECTIONS.

The following reports are condensations made by the inspector from his field notes. The field notes themselves are filed in the office of the Board, and show in very much greater detail the condition of the structures and roadbed.

ADIRONDACK RAILROAD.

Delaware and Hudson Canal Company, Lessee.

Since the last inspection in 1893, a number of improvements have been made. Among them is the deck pin connected steel truss bridge over the Sacandaga River in place of the wooden Howe truss, which, while perhaps able to stand the strain for some time, yet was wisely deemed too near the limit of safety. It is ninety feet from top of rail to bed of river. The iron shore spans were found in good form and well cared for, although painting would add greatly to their life. There is only one wooden stringer structure now upon this fifty-seven miles of road, and it was noted in strong condition. The masonry has not become weakened in any particular since 1893, and close attention is constantly given to this important item. The deck plate and through-plate girders were noted in good line and surface, and each had the appearance of being well attended to, the only criticism being the need of keeping the ends clean. Another item of great importance was noted improved in the last two years, namely, "widening on shoulders." Considerable of this work has been accomplished. Cinder and gravel ballast have also been placed. Considerable attention has been given to the erection of fences, and still much more is to be done this year. Cattle guards and cross fences and wings are also to be constructed this year. The right of way was found generally clean and free from track rubbish, though this work is needed in places to give the property that clean appearance noted upon the other branches. The telegraph poles that stand close to the track should be removed without delay. It is said that an entire new line of poles are to be erected soon. Some wire and post fencing was noted too near the track. The horizontal clearance at points in some of the rock cuts were noted too meagre for absolute safety under certain conditions. These defects will be remedied this season. The passenger stations were found in a well maintained condition. The North Creek station has a new platform, well made and of good material. The sleeper life was found very good, and the ties were noted largely of extra width and depth. A variety of wood is utilized and the renewals are ample. The rail was found in fair condition, "full spiked," and amply fastened at ends. While this rail is largely "seconds," taken from the main line, it was found fairly long and

free from undue lamination. Some seventeen miles of suspended joint bearings, and the balance of single tie bearings were noted. Large ties were noted at joints. Some shimming was noticed, though this item will be attended to immediately. The highway crossing warning signs were found up in good form and conspicuous positions. Near mile post A 58, was noted a change in progress by Highway Commissioner, eliminating a bad grade crossing. The crossing planks have been given little attention recently, and this item will in the near future be entirely renewed. Some new side track was noted—four hundred feet at Thurman's and about nine hundred feet at Riverside. The "clearance" marks were found well placed and cared for. The track was found well adjusted, particularly upon curves, of which there are a great many and quite sharp. The switch timbers were found generally strong and in good condition, as were also the switches and appurtenances. The floor system upon the new deck span spoken of above should be widened to give safe passage in case of derailed truck.

BROOKLYN AND BRIGHTON BEACH RAILROAD.

The work of placing this road in proper condition for summer travel is being pushed, and ample tie renewals were noted. The rail is still quite serviceable. Considerable attention to full spiking was noted, and the joint fastenings were found well cared for. The connection with the Kings County Elevated Road is in progress of construction, and will be completed this year. The fences, where up at all, were found well maintained. The road passes through cultivated lands principally, and fences are needed along the route. The right of way upon day of inspection was quite untidy, but the superintendent informed your inspector there was no use of cleaning up, particularly through the cut, until the abutting lot owners finished their spring cleaning, when it would receive attention. Considerable ditching has been done, and more is to be accomplished before June 1st. It is suggested that the trees and brush noted along the right of way be cut down and removed. The switches are modern in form, and were all in good condition and well cared for. The targets need paint and some renewals; this is to be accomplished immediately. Some three thousand five hundred new ties will be placed before June 1st. The Coney Island Creek structure will have new floor ties. The abutments for a new overhead bridge at Montgomery street were being laid upon day of inspection. About one hundred and fifty feet of retaining wall has been laid since last year in cut as an experiment; the whole cut should be treated in this manner. The nine overhead structures at streets were noted generally in good condition, though some need paint. The Malbone and Flatbush avenue station is being roofed and renovated. The pile structure at the Boulevard was found in good condition. The warning signs at grade crossings are being painted and renewed where needed. The rolling stock has been overhauled and placed in presentable condition for the summer. The road, as a whole, was found in good condition.

BROOKLYN AND ROCKAWAY BEACH RAILROAD.

Since the last reported inspection, the improvements have been many. It is now double-tracked, except about 2,000 feet at the East New York

end. The sleeper life was found good, and ample care is taken to keep the renewals full. Split point switches were noted, and in good working condition. The roadbed has been given a great deal of attention, and, considering the sandy material and soil in this locality, the tracks are kept well surfaced and lined. Cinders are used in large quantities, and when the work of placing the road in condition for summer is completed, it will reflect much credit upon the management. Rail circuit block signals are being placed every one-quarter mile on the single track and every mile on the double track. Considering the length of the road, three and a half miles, its operation, and the ability for carrying large crowds, will be quite effective. The structures in the roadbed (two in number) were found secure and stable. In East New York the track has been shifted so as to give ample room, as suggested by your honorable body. There is, your inspector was informed, some talk of change to electric power. The Canarsie end has been greatly improved, both as regards the road and the conveniences for landing. Broken shell surfacing has been placed between the tracks and leading to and from them. Artificial stone walks have also been laid, and new buildings erected, and others remodeled and painted. The engines have been overhauled, and the cars placed in good serviceable condition. Considerable new sixty-pound rail has been laid.

BUFFALO CREEK RAILROAD.

Considerable improvement has been made on this road since the last regular inspection in 1893. Seventy-five tons of new steel rail was laid last year, and the same amount will be placed this year. It is eighty pounds per lineal yard in weight, and of good section. The old rail stands well, though much worn in places. There is large freight traffic, and each year sees a large increase. Five thousand ties last year, and the same number this, have been placed—mostly white oak—six inches depth and nine inches face. The cedar cross-ties have ten inches face. The sleeper life was noted fair, though more renewals would give greater stability in places. There are four and a half miles of double track, and one and a half of single. The angle bars for new rail are of good section; they are thirty inches in length, and six bolt holes. All of the bridges have been painted since the last inspection, and were all found in good form and well cared for. The masonry was found in good state of preservation and well pointed. Ten set of split-point switches have been placed since 1893, and some fifteen set will be placed this year. There are some forty stubs in use yet, but it is the intention to remove these shortly. This road will be made a double track this year. Considerable ballast material is needed. Some 250 carloads were placed last year from Alden, on the New York, Lake Erie and Western Railroad. The speed upon this road is not of moment—eight miles for the freight, and twelve for the passenger trains. The Buffalo, Rochester and Pittsburg road have eight regular passenger trains daily from Buffalo, Rochester and Pittsburg Junction to William street. The Buffalo and Southwestern Division of the Erie road have five passenger trains daily. These roads during the summer have a large number of excursion trains. The pile trestle over Hatch's slip has been considerably shortened, and all renewed, as suggested in last report. This work was accomplished last

spring. About 4,000 feet of siding is to be laid this year—so officials said. The trestle at the end of the through bridge over the city ship canal has been filled in, and is a great improvement. This was also suggested in last report. The lake front branch has suffered greatly from wind and water. Ballast and riprap of refuse iron has been placed in large quantities, and, it is hoped, will greatly assist in keeping this track in fair position; 1,000 carloads of iron have been placed. A new water tank was noted, and also a number of new and nicely painted offices. The switches and appurtenances were in very good form and condition, as a rule. The crossing-plank were found in good life of timber. The adjustment of track would be greatly bettered with more ballast. More attention should be given to ditching.

CATSKILL MOUNTAIN RAILROAD.

This road is narrow gauge (three feet), forty pound per lineal yard steel rail, and extends properly from Catskill village, sixteen miles, to Palenville. It is a summer road, connecting with the New York Central and Hudson River Railroad and the West Shore Railroad. The passenger traffic during the summer months is very large. Improvements have been many since the last inspection, and your inspector is pleased to report considerable betterment in the general condition. The work of placing the track in proper condition is being rapidly pushed. The rail is quite light, though showing no particular wear at ends, considering the section through which it passes and the great number of trains. Spiking was noted "full," and very few bolts found loose or missing. The "sleeper" life was found very good, and they were noted closely spaced and of good section; strap plates are used extensively. Considerable material for ballasting and widening on shoulders has been placed since the last report, and the roadbed is now in fair condition; some places were noted, however, needing attention. Where the road skirts the creek, in places, filling and ripraping are needed. The sharp curves, of which there are many, are protected with guard rails and bracing. The work of cutting and removing the grass and weeds was in progress upon day of inspection. Your inspector would suggest that all trees upon the right of way be removed; danger from fire, and many other causes, would seem to make their removal necessary. Crossing-plank at highways and private roads were found in good life and well cared for. The warning signs at grade-crossings are being renewed. The small ones are being replaced with those of modern make. The fences are kept well repaired in the "open," and the property generally, at stations and yards, is well inclosed. Not a little new siding was noted along the line, and the freight traffic will, it was said, be considerably increased. Shale, for making paving brick, is to be hauled from a point on the Cairo branch to Catskill village, where a large plant is being erected for the manufacture of paving and building brick. The renewal of ties last year and this has placed the road in this item in excellent condition —chestnut and oak are used. There are no cattle guards upon this road of moment, and the superintendent said there is little need for them. New spring switches were noted. The switches, generally, were carefully examined, and found well locked and in good condition. The telephone line is being rebuilt, and better service will result. The passenger

stations were found in good general condition, and grounds orderly. The minor openings in the roadbed were all examined, and found in strong life of timber, both in stringers and floor system. The truss bridges remain as previously reported, and all were noted in good form and condition. The substructures were found in good condition with very few exceptions; one minor abutment was noted "bulged," and should be relaid. The adjustment of track appeared considerably bettered since last inspection. The Cairo branch was carefully examined, and found in good condition. It is nearly four miles long, and has received considerable attention. Low joints were noted to some extent, but not of moment, when the original condition of the rail is considered. The work of improving the terminal facilities at Cairo has been accomplished, and the accommodations are now very good—new turn table, new station, and yard nicely arranged.

CENTRAL NEW YORK AND WESTERN RAILROAD.

The inspection of this road began as in 1893 at Hornellsville. Your inspector noted considerable improvement since the last inspection, but many items still remain in the same neglected state. Unless this company makes its structures and tracks safe before the coming Spring, your inspector would recommend that it be not operated until such time as will insure its safe operation. Weeds and grass were found on the track very thick. The first ten miles out of Hornellsville was found very poorly maintained, indeed. Sleepers not able to hold spikes were frequently found. Angle bars not full spiked, and bolts loose. The ditches all along the road are neglected, as a rule. Ballast is very scant, and much of it without any. This company has 6,656 feet of trestles and bridges, with a large percentage wooden, and only four men and a foreman to attend to them, repair and renew. This should not be. More men should be put on immediately. This was suggested in your inspector's last report, but no attention is paid evidently. This road needs, and must have if it is to be operated safely, a large renewal of ties. Sixty-eight thousand have been received in three years and 185,000 are needed to reconstruct—including the narrow gauge division. There are only twenty-two men on track for fifty-one miles of road. Some 217 cars of gravel have been placed this year in various bad places. Forty-two highway signs have been placed since 1893. One hundred and seventy-five cars of gravel were placed in 1894. Since 1893 the stations have received new signs, as suggested by your honorable body. The stub switches have been removed. Ties are not properly spaced, and, together with poor spiking and decayed ties, the track is not safe. Ample gravel was noted along the road, and no reasonable excuse can be offered for not having the track properly ballasted. Very poor ties were noted at joints. This is a very bad feature. Fences need repair in many places. Switch targets need paint and repairs. Some bolts were noted missing. There can be no excuse for not full bolting. There is but very little protection from stock getting on the track. Cattle slats were noted in very urgent need of renewal. The road has not enough men to properly bend rails on curves. Many of the rails on curves are in very poor alignment and rail almost straight. Wooden braces were noted on curves. This should not be allowed. These braces are a menace to safety at best. Some fifty-four highway

grade crossings exist and new crossing plank was noted needed at many of them, also at farm crossings. Near Angelica many bolts were missing. It is to be remembered that without ballast a road cannot be kept up well. The officials and employes evidently do the best they can under the circumstances, but money and material should be furnished if this road is to be made safe for public travel. If the roadbed and track are in unsafe condition, and they are, the structures are much worse. In 1893 your inspector suggested that the Stonybrook Viaduct, the highest in the State, perhaps, be adjusted, thoroughly scraped and painted, and closely overlooked in every detail. Evidently no attention has been paid to it. This structure was erected in 1883. It is now in absolute need of attention. A new floor has been placed. This was done last spring. A new pier has also been erected in the bed of the stream and masonry pointed. Piers should not have been allowed in bed of stream. Spans should have been designed to leave the channel free. Too much care cannot be given this structure, and yet it is expected to care for itself. It was to be hoped some attention would be paid to your inspector's previous suggestions. An accident at this point would mean certain death to all on board. The stringers are three under each rail, and 8x16 inches in section Michigan pine, and only three new ones have been placed since 1883. Only every fourth tie was found spiked. There can be no excuse for not spiking every tie, and your inspector urgently suggests that every tie be spiked; also that the bolts at rail joints be full and kept tight; also every angle bar be firmly spiked. At this point high winds, with other causes, make it dangerous at best. Your inspector is aware that trains move very slowly over it, and that it is carefully watched night and day, as well as it is possible to with the help at hand; but it has been neglected too long; and unless it receives immediate attention, and is placed positively safe in every respect, your inspector suggests that trains be prohibited from crossing. The Howe through truss bridge over the Erie Railroad should be renewed with steel at once. It is positively unsafe, and trains should not be allowed upon it. The horseshoe trestle, which extends upon both ends of the Howe truss bridge about an equal distance, is in a very unsafe condition. It is patched up with various aged timber, and while the carpenter force, small as it is, is doing splendidly, yet much of it is too far gone. Formerly the sills were upheld by piles, and now many of the bents are resting on a "cob" work of old timber placed around the old decayed piles. The floor is old, decayed, and unsafe. The plumb posts remain as they were placed in 1883. Many of them appear too old for safety. A third stringer has been placed since last inspection. A number of new "batter" posts were noted placed recently. The great danger of sudden failure at this trestle is principally owing to its patched-up condition. Sound timbers and parts will not bear evenly and properly with those that are decayed and unsound. The cob work laid on soft ground in places, with other bents resting on piles, is very insecure at best. It is not amply braced lengthwise, and all its parts bearing unevenly makes it liable to fail at any moment. It is, of course, possible that it might stand for a year or two, or perhaps longer, but chances should not be taken. Your inspector would respectfully suggest that this trestle be practically renewed if trains are to be allowed upon it, and every unsound timber removed and the foundation made secure by placing stone piers under every sill. This

structure should be properly filled. The days of wooden trestles are about over with, and many of the roads throughout this State have ceased renewing them at all. Iron and steel are very cheap and much more economical than wood. Space forbids speaking in detail of the other wooden trestles and single spans upon this road. Suffice to say, they are all, with few exceptions, in anything but positively safe condition. The Canaseraga Bridge is wooden and very light. It is now bented. This Howe truss should be removed at once and a steel through plate girder placed in its stead. It was erected in 1883, and is now too old and decayed. Your inspector would earnestly suggest that a large force of carpenters be employed by this company at once, material purchased and every trestle not positively safe made so. Many of the single spans could and should be attended to by placing cast-iron piping and filling in. Your inspector is fearful of accident upon this road unless a wholesale reconstruction is at once begun. The company should at least place its structures in safe condition, ballast and make safe its track, use a bell cord on its mixed trains, and maintain less speed until the above-mentioned improvements on track and structures are made. A few of the cattle passes have been renewed since 1893.

Narrow Gauge Division.

This line still remains in much the same condition as when last inspected in 1893. It was then said that the road would be reconstructed and the gauge broadened. This has not been accomplished or any attempt made toward it. Words are not adequate to describe the condition of the rail and track parts. The only wonder is that cars and engine can stay on it. Every indication is an argument against its safe condition. Bolts gone, spike missing, spike standing half way out, ties too far decayed to hold spike, loose bolts hanging out of the holes, ends of rails half gone, short pieces of rail held together by short pieces of strap iron, with one or two bolts, worn and too loose, old, worn, ragged rail out of plumb, resting on rotten ties laid in soft, springy soil, are a few of the existing conditions of the track. Add to this the extreme lightness of the rail and it can be clearly seen that this road is not in a fit condition to be operated. Your inspector can see no reason for allowing this road to be operated in its present condition. It is certainly a menace to public safety. The officials and employes are evidently not to blame, for they, from indications, try to do the best they can. A road cannot be kept safe unless well ballasted and ties, bolts, spike and rail at least passably put together. Your inspector noted some improvements, including a ripap wall which has been placed at Portville along the river edge. More is badly needed. Seven thousand one hundred and thirty ties, mostly cedar, were placed this year on twenty-two miles of road. Four hundred and forty standard gauge rails laid on outside of curves, and the superintendent says from one to two miles will be placed before winter. Four hundred feet of new siding, and 500 car loads of gravel were noted since 1893. The coaches have been painted. Twelve men are supposed to attend to the track and the like. Eight hundred rods of wire fence material were placed last month. The highway signs were found very poor and could barely be seen. The fences need considerable attention. The telegraph poles are too close to the track. The

track for long stretches was noted covered with a thick growth of weeds and grass. For quite a distance the track was fastened to stakes with wire. Your inspector was informed this had to be resorted to when the river was high to prevent the track from being washed away. Trees should not be allowed close to the track. The switches should be kept locked. A park for picnicers has been fitted up near Olean and a Y laid to it. Ten thousand people were carried there during the summer. It is proper to say that near Olean the track is not so very bad, though too poor for crowds to be transported safely over. Your inspector would suggest that this road be closed until new rail, sufficient ties, ballast, and safe structures are forthcoming. The foreman of the carpenter gang does not live on the line, and consequently does not properly know the condition of the various timber structures. The trestles, cattle passes, waterways, and bridges were examined and found in anything but proper condition. Spans without floor ties are very dangerous for a derailed truck. Some improvements, renewals and repairs were noted upon the bridges, but not enough to keep the factor of safety ample.

Immediately upon the receipt of the above report by the Board the company was notified to forthwith place the road in safe condition, in default of which proceedings would be taken to compel a suspension of operations.

John Byrne, Esq., President of the Central New York and Western Railroad Company, replied as follows to the above communication:

NEW YORK, *September* 13, 1895.

CHARLES R. DEFREEST, *Secretary, Albany, N. Y.:*

DEAR SIR.—I have your favor of the 12th inst. enclosing report of the Railroad Commissioners on the Central New York and Western Railroad, and in reply have the honor to say, with the fullest respect to the Railroad Commissioners of the State, and the views of the inspector and yourself, that this company is at present unable to comply with your requirements. While the condition of the road reported is not in accordance fully with the information which I have officially of the condition of the track, yet for the purpose of this reply I am willing to adopt your report. For three years the road has been kept open for the benefit of the communities served by it, at the urgent request of the people, at a daily loss to the Company, and for my part, while keenly feeling the loss, I shall deem that I have done my duty if in the judgment of the Commission we are to be relieved from further responsibility to the people in the premises. Taking into consideration the condition of the territory, notably from Wayland to Angelica, and that along and tributary to the narrow gauge division, where the people are absolutely dependent upon this road for an outlet and connection with the business world, the necessity for the road will be apparent. It was only in response to that great necessity that we consented to keep and have kept the road open and in operation at a continual loss to ourselves. We secured title to the road just at the beginning of the business depression, since which time it has been impossible to negotiate any plans of extension or improvement that will even insure safety of money invested, or the return upon capital put into the property; but we recognized the fact that the people in their

little industries and other business, were correspondingly reduced to a very small margin of profit, and that such industries and business could not be maintained by wagon transportation over mud roads; and we therefore concluded, in response to the request of the leading men of the several communities to keep the property going, even at a loss, until such time as the improvement in business conditions would offer an opportunity to build on the same lines an extended property of first-class character, upon which we could hope to get a return for our money. If you shut the road down now you destroy all hope of receiving a return from the investment which we have put into the property, amounting to-day to some $450,000, and you destroy the business of a great many people who are dependent upon the road, and have made their plans based upon its continued operation; yet, for my part, I prefer to make that loss right here to putting another dollar into the property on its present mileage.

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I am thus frank with you in the premises that you may act intelligently. To comply with your requirements, as demanded in your despatch, is simply out of the question at the present time, but before a month passes over may be entirely convenient, and to our interest. The New York owners in this property have no interests in that territory beyond this railroad; and I feel that, considering the time which we have passed through, we have served public policy well, and generously, in keeping open as necessary a facility for the benefit of several industrial communities, and are entitled to the most generous consideration in the ruling of the Commission upon our present status and plans.

I am, very respectfully,

JOHN BYRNE,

President and General Manager.

A second inspection was then proposed by the Board, to be made by Inspector Baxter, an engineer to be selected by the company, and by Charles F. Stowell, a recognized authority upon railroad track and bridge construction; the company to make such necessary repairs as might be agreed upon by the three engineers, to place the road in safe condition for operation during the winter, otherwise operations to be suspended. This proposition was accepted by the company, and the inspection was begun on October 9th and completed October 11th. The following is the report of Engineer Stowell:

ALBANY, N. Y., *October* 21, 1895.

To the Honorable Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—In accordance with your instructions I have made an inspection of the Central New York and Western Railroad, with the view of reporting on its condition as to safety of operation, and have the honor to submit the following, viz:

The inspection was made on the 9th, 10th and 11th of October, in company with your inspector, Mr. F. K. Baxter, the general superintendent of the road, Mr. M. S. Blair, the roadmasters and master carpenters of the different divisions, and, in part, by the vice-president and general counsel of the company, Mr. Frank Sullivan Smith, and the company's chief engineer, Mr. Wm. Barclay Parsons.

operates a standard gauge road from Hornellsville to
ion, ten miles, thence diverging to Wayland, twelve
a, twenty-five miles; also a narrow gauge road from
een miles.
e road, that portion between Hornellsville and
furnishes an outlet from the Delaware, Lacka-
d into Hornellsville. The traffic between
gelica is comparatively small. As to the
between Hornellsville and Wayland is
o miles, including about six stops, in
has to make connections at both
n time, say five minutes, in case of
d on this portion of the road often
.. Between Hornellsville Junction and
ratively unimportant, and trains may be run
n the narrow gauge division the maximum speed
exceed twenty-five miles per hour.
ght of rolling stock, the company has four ten-wheel and two
-wheel locomotives on its standard gauge division, of which the former have 58,400 pounds on a driving wheel base of nine feet (with 29,500 pounds on forward pair of drivers), and the latter have 47,000 pounds on a driving wheel base of eight feet, four inches. On the narrow gauge division the heaviest locomotives are said to weigh twenty-six tons, total, and the heaviest loads carried in freight cars weigh ten tons.

Standard Gauge Division.

1st. *Track.*—Some improvement has evidently been made since the last visit of your inspector, early in September. Enough bolts have been provided to fully bolt all splices, and in most instances this has been done, though an occasional bolt is missing which the superintendent assured us would be remedied at once. At many of the frogs and switches, where short rail lengths have to be used, the cut ends of rails have never been drilled for bolts and such splices are held by two bolts only, through but one of the rails. These bolt holes should be drilled at once and all such splices fully bolted. The inadequacy of the track force seems to be the reason why this has not been done before. At frogs and switches it is especially important that a track should be in good order.

Considerable work appears to have been done on the roadbed since your inspector last saw it. The grass and weeds have been removed, some surfacing done and some new ties placed, but there is need of many more. Between Hornellsville and Hornellsville Junction your inspector reported the track as being in the poorest condition, and it still remains so. The new ties which have been laid are not placed with the best judgment. Sound ties ought to be at the joints rather than anywhere else, but in this stretch of track new ties, in many cases, are found at intermediate points, while those at the joints are poor and often refuse to hold spike. The joint ties, too, with the kind of spikes used, should be so spaced that one tie comes under each end, of the splice bar, and the splice held by four spikes in sound wood. As it is, sometimes, both ends of the splice rest on ties, sometimes one end and sometimes the tie is under the middle of the splice with both ends overhanging. A few of the splices

are fully spiked, but by far the larger proportion have but two spikes and sometimes these are in decayed wood.

The lack of ballast spoken of by your inspector is noticeable, and this, too, is apparently due to the inadequacy of the track force to give it proper attention.

Special attention should be paid to keeping the track on the approaches to bridges in good order, but this point does not seem to have been given careful attention. With structures in poor condition, with scanty appliances for taking care of derailed wheels on bridges and with track scantily ballasted and liable to much disturbance by frost, prudence dictates that every practicable means be used to prevent the wheels from leaving the rails especially on the bridge approaches.

It is now too late to give the track the thorough renovation which it ought to have to bring it up to a first-class standard, this season. The main thing needed to enable it to go through the winter without extraordinary hazard is more ties. With plenty of ballast and good drainage a track can stand some deterioration in the ties, or with scanty ballast and poor drainage good ties, well spiked, will do much to keep a road in running condition. But with both these conditions allowed to run down to a very low point, the outlook for a winter campaign is not encouraging. Two thousand ties can be used to good advantage between Hornellsville and Hornellsville Junction, and more at intervals along the rest of the line. If enough sound ties are put in to hold all the joints and not ess than six or seven intermediate points of each rail, with spikes in sound wood, I believe, with such additional assistance as the rails get from the best of the old ties, it may be operated with care during the winter. The most of the work on the track ought to be put in between Hornellsville and Wayland, where the highest speed is maintained, and special care paid to joint ties and to the track on bridge approaches.

2d. *Structures.*—The principal structures on the division are the iron bridge just out of Hornellsville, the iron viaduct at Stony Brook, the Howe truss bridge at Canaseraga and the long trestle and Howe truss bridge over the New York, Lake Erie and Western tracks at Swains Junction. In addition to these there are a large number of open culverts, cattle passes and trestles.

The iron bridge near Hornellsville and Stony Brook viaduct need paint very badly, and are also out of adjustment. Before painting, the rust should be thoroughly cleaned off, which will take some time to do, and cannot be accomplished before cold weather sets in. I would recommend, therefore, that the painting and cleaning of these structures be deferred till next season, but that they be immediately put in thorough adjustment. Ties on the former bridge are spiked to rails only at every alternate tie, as is the case with many other structures on the road. Spikes should be placed in every tie on bridges.

The Stony Brook viaduct has had a new floor recently and the rails thereon are well spiked, but are laid with close joints, which is liable to occasion trouble when hot weather comes unless remedied beforehand. One of the pedestals under this bridge is partly undermined, due to the disintegration of the underlying rock. As yet there is no indication that this has progressed far enough to affect the stability of the structure, though such will be the result in time. Next season this pedestal should be rebuilt, but it would be best not to do it in cold weather, unless

absolutely necessary, and I think there is no doubt about it being perfectly safe until next summer, at least. The speed of trains over this bridge is reduced to four miles per hour.

The Howe truss bridge at Canaseraga is in very bad shape. It rests upon two bents at one end and two bents at the other, leaving only three panels of clear span. I would recommend that another bent be placed under it at once, leaving a clear span of but two panels, which will carry the load until spring, when it should be rebuilt.

The long trestle and Howe truss span at Swains is about on its last legs. All trains cross the structure with great care and at a very low rate of speed, so that the danger of derailment is reduced to a minimum. The Howe truss span is considerably decayed, but I find that the sizes of the members is such that there is a large margin for deterioration, and I would be willing to trust the bridge for its present use until spring. The trestle approaches to this bridge, something over eighteen hundred feet long, are in exceedingly poor condition. The bents rest on piles, cut off near the surface of the ground, and in many instances these piles were found almost entirely gone through decay. A large number of these supports have been re-inforced by blocking up underneath the sills, but many more need the same treatment in order to render the structure safe even for temporary use. This trestle should be filled, and, I understand, the company has the subject under consideration. It is probably too late to do this this season, but it should be arranged for as early as possible, and in the meantime, the blocking under the sills should be continued throughout the whole length of the structure. This being done, I believe the structure may be trusted to carry trains, with the present precautions as to speed, until spring.

Beyond this trestle there are two large trestle bridges, Nos. 48 and 50, the renewal of which is contemplated. These trestles were originally built for narrow guage traffic, and the bents were spaced twenty feet apart, centers. Afterward, when the gauge was broadened, intermediate bents were placed between the original ones, making the present spans only ten feet. Many decayed timbers are to be found in these trestles, but the carpenter force appears to be giving them as close attention as the limited number of men and small amount of available material will allow. The original bents were placed on stone foundations, but the ones added afterward rest on piles, many of which are decayed and need blocking to make the structure temporarily safe.

There are many short openings in the track, open culverts, cattle passes and short trestles, some of which could be advantageously filled. Nearly all of these are more or less out of order and in a good many cases are marked for repairs, as soon as the carpenters can get around to them. The large amount of work cut out for the carpenter force, however, renders it doubtful whether very much of it will be accomplished this season unless the force is increased. With some repairs, and the renewal of the worst decayed timbers, these structures may be put in a condition to be safely used until another season, but it will require a larger force than the company now employs to do it. The track on many of these structures is very poor, ties rotten and often unable to hold a spike, and in a few cases spiked not oftener than to every other tie. There are generally no guard timbers, and often only an apology for a spacing ribbon, to keep the ties from bunching in case of derailment.

I would strongly recommend that, in order to render traffic temporarily safe, the carpenter force be at once increased. Ten or a dozen additional men can be worked to good advantage until cold weather sets in in strengthening the wooden structures, and especially in putting the track on them in such condition that a possible derailment will not mean almost certain destruction. I believe the master carpenter of the division appreciates the condition of the structures and understands where repairs are most needed and how to make them. But without men or means it is impossible for him to do much.

Narrow Gauge Division.

1st. *Track.*—Since your inspector's last trip over this division improvements have been in progress as fast as the limited track force could make them. At the upper end of the division, where your inspector found the roadbed covered with a growth of grass and weeds, this has all been cleaned off, and the track is being surfaced and put into as good conditions as the means provided will allow. At the most dangerous places the original iron rails (weighing 30 and 35 lbs. per yard) have been replaced by much heavier standard gauge rails, and a considerable number of such rails are at hand ready to put into the track. When all laid, which the superintendent assured us would be this fall, there will be about five miles of track laid with heavy rail. The new rails are at present fastened at splices by only two bolts, but sufficient bolts for all holes have been ordered and are expected very soon. With this heavy rail, and by using the best of the old rails to renew the worst spots in the remainder of the track, I believe the road may be safely operated temporarily as far as rails are concerned. A great many of the old rails are badly kinked and worn, and some of them are broken. At one place a rail was found with five breaks within a space of three feet. Orders were given to have this rail taken out at once, but where such a thing is discovered during an inspection as necessarily rapid as ours, it leads one to speculate as to how many more such cases may exist which were not hit upon. This rail would no doubt have been discovered and removed by the track force when they came to it, provided it did not manifest itself by throwing a train off the track before, but with so small a force engaged on the track it might be a long time before they reached it.

Many of the ties on this division are very badly decayed. A considerable number of new ties have been put in the new track and distributed generally with very good judgment. But many more are needed to hold the rails properly or even safely. The old light rails, partly in consequence of their narrow base and partly through the decay of the ties, have cut into the ties on the outside, and for long reaches stand far out of the perpendicular. The ties are getting so old that spikes refuse to hold in many of them, and there is much and increasing danger of the rails turning over. I believe it essential to the safety of trains that at least enough new ties be laid this fall to hold the rails upright. This is the more necessary inasmuch as the ballasting of the whole division is very scant in quantity and poor in quality. No good ballast is found anywhere along the division. Especial care should be taken to keep up the track on bridge approaches, at least.

2d. *Structures.*—There are two long Howe truss bridges on the division

at Olean, both of which have long since outlived their usefulness. They are, however, supported by bents throughout and are, in fact, simply trestle bridges as they stand, the trusses being retained to give lateral stiffness. Some of the timber shows decay, but it will carry for the present. The remainder of the structures on the road, of which there are thirty-five or thirty-six, are trestles, open culverts and cattle passes, the largest one being a long trestle at a saw mill near Portville. None of these trestles are very high, and many of them could be filled or pipe culverts substituted with ultimate economy and much less risk of accident. None of these structures have a first-class floor, the ties being widely spaced, no guard timbers, and in some instances ties badly decayed. On some of the shorter openings the rails are laid directly on the stringers. All of the structures are of hemlock and forcibly exhibit the treacherous character for which that timber is noted. Many instances were found where a stick showed nearly or quite perfect, but on boring it the interior was discovered badly decayed. The foreman bridge carpenter on this division has a list of pieces needing immediate renewal, and for which the timber has been ordered, but it was explained that in consequence of the unusual low water the saw mills in the vicinity are unable to run, and it is doubtful when this material can be had from them. The renewals noted on this list should by all means be made this season, and if material cannot be obtained along the road it can be had elsewhere. The track on the bridges needs alignment badly.

To summarize, I would recommend as immediately necessary to the maintenance of traffic during the coming winter on the standard gauge division, adjustment of the iron bridge near Hornellsville and of Stony Brook viaduct, an additional bent under Canaseraga Creek bridge, the blocking up of Swains trestle throughout, the blocking of trestles Nos. 48 and 50 wherever piles are decayed and the renewal of the worst decayed timbers therein, the renewal of such timbers on other structures as the master carpenter has noted, the renewal of such ties on all bridges as will not hold spikes firmly, the completion of the work of fully bolting all splices, the laying of at least enough new ties to hold the track to gauge, and the employment of sufficient additional force to accomplish this work quickly. On the narrow gauge division the placing of enough new ties to hold the line to gauge and the rails perpendicular, the renewal of all the timbers of which the master carpenter has a list and the completion of the work of fully bolting all splices, including replacing old bolts where worn so much as to be incapable of tightening and the lining up of track, especially on bridges, and spiking to every tie thereon.

These recommendations are intended to be of temporary effect only, to carry the track through the winter. A general renovation of the whole ought not to be deferred longer than spring.

In conclusion, I would call your attention to the progressive deterioration in this road as shown by the successive reports of your inspector. In 1883 he reported (on narrow gauge only) "The surface and lines are commendable for their excellent condition. Bridges generally sufficient for standard gauge and all openings provided with the best flooring. Every precaution appears to have been taken to protect against accident from derailment." In 1885, on the standard gauge division, the structures were found "In good condition and generally properly floored. Ties mostly oak, and in good strong life." On the narrow gauge division "a few

structures have too old timbers in them. Ties generally in good life, but iron rail shows considerable wear. Track not as well lined up and surfaced as when last inspected." In 1893 the Howe truss span over the Erie tracks in the Swain's trestle had "become too old for absolute safety. Many of the piles upon which the bents rest were found badly decayed as well as sills, posts and braces. Sleepers close together, but too many were noted decayed badly." On the narrow gauge division the rail was found "much worn and kinky." "Sleepers very poor as a rule and uneven in length and thickness." The road at that time was only "being kept up temporarily and next year will be widened to standard gauge."

All of which is respectfully submitted.

(Signed) CHAS. F. STOWELL.

On October 22d Mr. Stowell's report was presented to the Board, its recommendations adopted and a copy of the report, together with a statement of the action of the Board ordered transmitted to the company.

The following reply was received from President Byrne, which, upon November 11th, was accepted by the Board as a satisfactory assurance that the road would be placed in safe condition:

NEW YORK, *October* 28, 1895.

Charles R. DeFreest, Secretary, Board of Railroad Commissioners, Albany, N. Y.:

DEAR SIR.—I have your favor of the 24th instant, enclosing copy of report of Charles F. Stowell on the condition of the Central New York and Western Railroad.

In anticipation of the report, on the recommendation of our engineer, Mr. Parsons, we have had the Stony Brook Glen viaduct overhauled and adjusted by the Union Bridge Company, and have ordered five thousand ties for use on that portion of the road on which you recommend two thousand as being necessary.

The other repairs which you recommend will receive our prompt attention, so far as the season will permit. I have ordered steel bridges for the Canaseraga Creek, and also for the crossing of the Erie at Swains. We expect to overhaul the entire line as soon as the season opens in the spring; in the meantime the trestles will be put in safe condition.

Very respectfully,

(Signed) JOHN BYRNE,

President and General Manager.

COOPERSTOWN AND CHARLOTTE VALLEY RAILROAD.

This road is standard gauge, fifty-six pound steel rail, and twenty-five miles long, extending from Cooperstown to Davenport Center. Considerable new rail has been laid since the last inspection in 1893. The old rail remaining is much worn and should be replaced without delay. The general manager informed your inspector that the old rail would be removed surely, another year. Careful observation showed too many joint bolts missing and loose. It cannot be that bolts are refused the trackman—the fault is rather with the trackmen themselves Neglect and carelessness was also noted frequently in the item of spiking. Care

in keeping the rail well spiked is very necessary. While a large amount of "shouldering out" has been accomplished since the last inspection, many places were noted needing immediate attention, particularly upon curves. The company has now access to a large gravel deposit close to the track and in easy position, so that with small expense, very fair ballast and material for widening out is obtainable, and this work should not be put off. The sleeper life, while in the general sense strong, should be bettered without delay. Some thirteen thousand chestnut ties were purchased last winter and are to be placed this season. Quite long spaces were noted very poorly tied. Too many instances were noted where the trackmen have left "shims" in. This is a bad practice and should not be allowed. Considerable ballast was noted needed along the line. The track cannot be kept properly in surface unless there is a sufficient amount of good material. The surface and adjustment of track in many places were noted very poor. The ditches, while fairly opened, should receive much more attention. This is a very important item in track maintenance, and should not be neglected. The fences were fairly well cared for, and considerable was recently overhauled and repaired. Boards and posts prevail largely. The "positive nut lock" is being used to quite an extent, and the officials express satisfaction with it. The switches were found in good working order, of the "split-point" pattern, and strongly upheld. The targets should receive more attention. Too many were noted needing paint, and some were found needing repairs. The highway warning signs have been somewhat bettered, though more attention is suggested in keeping them strongly maintained. Two new buildings were noticed in the Cooperstown yard, of wood, and well constructed; one is for storing cars, and the other is used for storeroom and lumber. A new roof was also noted upon the round-house. Two new milk stations have been erected since the last inspection, and two more will probably be erected this year. The passenger stations were examined, and found very well maintained. More attention is suggested in keeping the water-closets clean and orderly; also in keeping drinking water at hand. The names of the stations are to be neatly painted this season. The track should be kept free from grass and weeds. More attention should be given to keeping the right of way free from brush. Wooden bracing was noted upon curves. This should be discontinued. Iron should be used; wood is not reliable. The crossing plank along the line were noted in good life, but instances were found needing immediate attention. "Stock guards" should be placed without delay. The small openings, as previously noted, have T-rail stringers, and were found in fair condition; the masonry, in some instances, was found composed of small stone, and laid up dry. Some have been relaid with cement since the last inspection. It is certainly false economy to allow small stone in abutments. The long trestle near the junction of the Delaware and Hudson Canal Company's road has been filled during the past year. The iron through bridge over the Delaware and Hudson Canal Company was found in good form and condition. The masonry, however, now that the trestle is filled, seems too light to hold the embankment without strengthening. This work should be accomplished without delay. A new deck-plate girder has been erected south of the Delaware and Hudson Railroad over the creek. Near Phœnix Mills was noted a trestle over creek with bents in dangerous position; high water, driftwood, and

the like might easily cause failure. The bays are about ten feet centres. The structure appeared in strong life of timber, but should be replaced with iron bridge and stone abutments. This company has, in the last two years, bettered the permanent features of the road greatly; still, there is much room for improvement; and it is earnestly suggested that an extra effort be made to place this road in safer condition. The wooden Howe through-trussed bridge, re enforced with wooden arches, is still in existence. It is out of line, and appears to have outlived its usefulness. A modern iron, or steel, structure at this point should be erected. Guard rails and guard timbers should be placed upon all of the structures of note. Water, for protection against fire, should also be placed upon all wooden structures. All mudsills should be placed upon solid foundations, and dirt not allowed around and over them.

FALL. BROOK RAILROAD.

The principal improvements noted on this line since the last inspection, is extension of sidings and yards. Four and eight-tenths miles of seventy-five-pound steel rail have been laid since 1893. Thirty thousand white oak ties were placed this year. The sleeper life was found very good as a rule, though not a few showed signs of being beyond the limit. More attention is suggested in spacing ties so as to have proper bearing at joints. Nuts are being placed on inside of rail where new steel is laid. An effort should certainly be made to renew the few wooden stringer openings with steel. This road is well ditched and graded, and great care is taken to keep the track in good surface, alignment and adjustment. A system of prizes prevails, and the track force take pleasure in keeping the road-bed in first-class condition. This company's lease expires in 1903. The superintendent promised that extra care would be immediately taken to replace missing spike at joints. The highway warning signs need brightening in paint in many instances. The crossing plank were noted generally strong, though instances were found needing renewal. Derailing devices were noted at all grade sidings. Joint bolts were found very well attended to, both in numbers and condition. A great deal of ashes and cinders are dumped along the road, and on day of inspection, indications showed that great care should be constantly taken to prevent danger from fire. It is suggested that immediate steps be taken to remove all trees, telegraph poles and other inflammable material to a safe distance from track. Trees and poles are liable to cause derailment by being blown upon the track. Limbs of trees and poles too near the track, if struck by lightning, are liable to fall upon it, and entail dangerous conditions. Trees that overhang the track should not be tolerated at all. The superintendent promised that immediate steps would be taken to relieve this situation. Water should be constantly kept upon all structures, particularly the long and high viaducts. This was also promised by the superintendent, and orders given on day of inspection. The property is well fenced, and was found, as a rule, neat and orderly. Where new wire fence is erected, the posts should be placed not further apart than eight feet. This gives great stiffness, and resists snow and wind, and adds greatly to its life. A short piece of track was noted with square joints. Tie guards should be placed and maintained on all bridge floors. Several of the highway signs near State line bear the words, "Railroad

crossing" only. The structures are carefully watched and great care, as a rule, is given them. The iron and streel bridges were found in good form and condition, as far as could be seen. The substructures were noted well pointed and of large stone well laid; very few instances were found needing attention from leaning walls. On the north end of the Rock Stream bridge is a short beam span. The abutment rests on shale rock, but is to be protected by erecting a retaining wall from its base down to the piers under the ends of trusses, the idea being to keep the shale from disintegrating and falling away. For positive safety, and in consideration of the abutment's narrow base upon insecure material, it is recommended that the material be excavated to the level of the lower chords of trusses, and a new and heavier abutment erected. Considerable work has been accomplished in repairing, renewing and strengthening the larger structures. New capstone is certainly needed near Corning, over river, at end of through truss bridge. Too many joint spikes were noted missing near State line. The passenger stations were found generally in good state of repair and in neat condition. A new coaling trestle was noted in the Corning yard, which has a capacity of twelve pockets, and fifteen tons per pocket. The sterling worth automatic switch stand is being placed at all switches. This switch stand was spoken of in last report.

Penn Yan Branch.

This line remains about the same as when last inspected in 1893. The structures have been repaired and renewed where needed. The rail does not show much wear and the ties were found strong and closely spaced. The bolting and spiking were noted ample. One crossing was noted without a sign, but it was promised that one would be placed at once. The ballasting, while not very deep, shows well for amount of traffic. Crossing plank were noted, as a rule, very well attended to. The trestles over outlet have been renewed and sidewalks placed upon them. The fences, as a rule, were noted up and in good condition. This branch is comparatively new yet, but was begun in 1885. The switches are mostly split points, though a few stubs were noted. The alignment could be considerably bettered. The track is fairly well surfaced for traffic. This company has fifty-seven grade highway crossings in this State, four of which are protected. Over two miles of sidings were extended in 1894 and 1895. Oak tie renewals for 1894 and 1895 were 60,000; hemlock and chestnut, 10,000. New steel laid, seventy-nine miles of main line and fifty miles of sidings.

FITCHBURG RAILROAD.

Main Line.

This inspection began, as before, at Troy. The main line was found considerably improved since last inspection. The sleeper life was found exceptionally good. The ties are of good section and closely spaced. Chestnut and oak have heretofore been largely used, but hard pine is now being tried to some extent. The renewals in the last two years have been ample. The ballast material is not meager, though places were noted needing more to fill out with. Generally speaking, however, the gravel

ballast was found well attended to. The embankments need widening out at shoulders in not a few instances. The alignment, particularly on curves, is good, and the adjustment of track intelligently handled. Spiking is ample and well cared for generally. On structures every other tie is spiked. This method, while good, would be much better if every tie was spiked. Considerable square joint work was noted. The U bolts in the Fisher fastenings are the cause of dissatisfaction, and the nuts need careful watching and attention to keep them in proper position. This joint fastening does not seem rigid enough for the traffic and general conditions. Angle bars of heavy section are being placed with the new and heavier rail. The rail was found in good condition, as a rule; seventy-six-pound is being placed; some ten miles of new rail this year. The grades, while in some places heavy, are, as a rule, not excessive. The fencing was noted well up, and consisting of wire and posts. The posts are of good section. Eight-feet centres would give more stiffness and hold the wire better than the present spacing, which is about twelve feet. Barb wire prevails largely. The cutting and removal of grass, weeds and brush is to be commenced shortly. The ditching has been carried on with good results, as a rule. Some places were noted needing attention. The switches are all "split points" and maintained in excellent form, as a rule. All not in use were found carefully locked, and care was apparent in the adjustment. The targets were found well painted and in good repair. The stands are of the Ramapo type and give good satisfaction. The guard rails are well spiked, and the bracing was noted ample, though in some instances lacking attention. The highway-warning signs were found up in good general life of paint and in conspicuous positions. This road consists, in the State of New York, of ninety-one single track miles, thirty-six and one-half miles of branches, and fifty-five miles of side-track. About three-fourths of this company's main tracks are square joints in this State. The culverts under embankments have been overhauled and largely repaired. The crossing planks were found in good condition and well cared for. The cattleguards were well maintained. The passenger stations all appear in neat and orderly condition and well maintained. The structures, as detailed in last report, were found well cared for. The floors were found strong, and consist of yellow pine, closely spaced. The sub-structures were found in good condition, as previously reported. All of the minor openings have good floor systems, and the stringers are I-beams, with very few exceptions. All wooden stringers were noted in strong life, yellow pine, and of ample section. An effort should be made to close up a number of the small cattle passes. Fifty thousand ties will be placed this season. All the questionable trusses and girders have been reinforced, and the parts are now ample for the increased motive power and traffic. East of Johnsonville was noted a new deck-plate girder over street, placed since last inspection. A bridge over the Hoosac River, erected by the Delaware and Hudson Canal Company in 1893, was noted.

Bennington Branch.

This branch is five and four-hundredths miles long, single track, standard gauge, and laid with sixty-pound steel one mile, and the rest seventy-six pound. The sleeper life was found very good and the ties of fair size

and closely spaced. The renewals average 300 per mile. The ballast has been attended to and now is in fair condition. The adjustment of track is very good and the fastenings were found well cared for; spiking full and alignment very good. The fences have been repaired and now present a good appearance. Brush, weeds, and grass have not as yet been attended to, but will be soon. The switches are in good condition and care taken to keep well tamped under the parts. The stands and targets receive ample attention. The ditches have received attention, though instances were noted needing more depth. This important item should not be neglected. The highway crossing signs were noted up, in good position as a rule, though more attention is suggested in the item of paint. Crossing plank at farm and highway crossings were found strong in life and in good position with few exceptions. Square joints prevail. The spacing on floors is six inches, though renewals are to be four. Near North Hoosac the two spans of deck wooden Howe trusses have been recently strengthened by two five-feet arches, ten-inch wide, and composed of spruce planking. The distance between "skew backs" is 230 feet, with a rise of twenty-four feet. These arches were placed in the fall of 1893. The trusses are about twenty years old, roofed and sided in, and in a fair state of preservation. The short end span on bents looks fair. This structure is over the Walloomsac River. The floor systems of minor structures are all strong. The masonry along this line is in very good condition, though attention is needed at places. Cleaning on bridge seats should not be neglected. Guard timbers on bridge floors were noted strong and well bolted.

Saratoga Branch.

This branch is about eleven years old, is single track, standard guage, laid with sixty-pound steel rail, and seventeen miles long. This branch, it is claimed, hardly pays for maintenance. The sleeper life was found very good as a safe rule. The ballast is meagre, and through the clay cuts little attempt is evidently made to keep the track up as it should be. The ditches, particularly through the cuts, should be given closer attention. The material is hard, indeed, to control, but with sufficient help good results could be obtained. The track adjustment is fair considering the other conditions. Bolts and spikes were noted missing to some extent. The rail appears well when lack of ballast and slight traffic is considered. The grades are not excessive. Brush, grass, and weeds should be cleaned and removed. The switches, stands, targets, and timbers were noted fairly attended to. The highway warning signs should receive attention in some instances, though as a rule they are in average condition. The crossing plank are kept in strong life generally. The cattle guards were found strong and in good condition. The passenger stations are in fair condition. The structures remain as previously reported; the smaller ones are in very fair safe condition. Sills should not be covered; it precludes proper inspection, and danger from rapid decay is a bad feature. The trestle near Wayville built in 1888 was overhauled last year and placed in good, safe condition. It is 300 feet long and twelve feet centres of caps. The long trestle at Saratoga lake outlet on piles should be narrowed up if possible. The water is quiet and little need can be seen for so long (600 feet) a structure. There are some twenty small structures and all appeared in strong condition.

Schuylerville Branch.

There are some twenty-four structures upon this eight miles from Schuylerville Junction to Schuylerville. This branch has considerable traffic and is maintained fairly. There are still four stub switches, which should be replaced with "points" as soon as possible. The sleeper life is good, the ties closely spaced, and of good section. This line should receive more attention in the item of ballast. The shoulders should be widened. The adjustment of the track was noted averaging well as a rule. Spiking and bolts should be given more attention, at places. The fences are well cared for, mostly wire and posts, with strands close. Brush weeds and grass will be removed shortly. The switches receive proper attention. Targets and stands are in good condition. The warning signs at grade crossings are conspicuous and in a fair state of paint. Plank at crossings are in good life and well in place. All of the bridging (wood) was renewed in 1888 and 1889. The trestles are low on piles and all with ample timber and well maintained. Not enough attention is given, it would seem, for protecting the trestles and wooden structures from fire.

FONDA, JOHNSTOWN AND GLOVERSVILLE RAILROAD.

Extensive improvements have been made upon this road since the last inspection in 1893, and it is a pleasure to note the attention given by the officials to all of the details tending to ensure safety. A new siding, 180 feet long, had been put in at Gloversville, also the McKeever switch connecting the electric road. Seven miles of seventy-pound steel rail have been laid since 1893. Five miles of iron rail were noted still in use. This rail should be replaced with steel without delay. It is said new rail is forthcoming. Three miles of square joints are left. The sleeper life is, as a rule, very strong. Occasional short spaces were noted with ties too ripe. The renewals, however, have been large. In 1893, 14,000 ties were placed, 10,000 of which were Georgia pine, and 4,000 black ash; 1894, 5,000 black ash and cedar, and this year 5,000 more have been laid. The ties are close together and of good section. The telegraph poles that stood close to the track have been moved further away. While this road is not in very bad condition as regards ballast material, still the north end is meagrely supplied. Much of that which has been placed is too fine. The company has purchased quite a large gravel bed on the line of the proposed Broad Albin Road in which the gravel is of extra quality. This gravel is to be utilized in the near future. Considerable widening on shoulders has been accomplished since the last inspection, but a number of places were noted needing immediate attention. The ditches have received needed attention, and with the exception of a few wet cuts, this item is quite satisfactory. The fences have been generally overhauled and repaired, so that upon day of inspection the property was well inclosed. The highway grade-crossing warning signs have been painted and renewed where necessary and now present a good appearance. They are in conspicuous positions and firmly set. The suggestions made by your inspector at last inspection have, in almost every instance, been attended to. The structures in the roadbed have been numbered, clearance posts are up, and signs for flanging also noted. The adjustment of track upon the new heavy rail

is good, and that of the older rail is fair. More care should be given bolting and spiking at joints, in places. Attention should be given to proper spacing of ties under old rail joints in a number of places. The switches were found in good order, as a rule. The stands and targets are kept in good condition as regards paint and repairs. The switch-stand timbers, with very few exceptions, were found amply strong in life and size of timber. All the farm gates have been renewed since the last inspection. The passenger stations were all examined and found well painted, inside and out, and in a good state of maintenance; not a few have been overhauled and remodeled. The round house and water tank at Northville was burned last February, but a new one has since been placed, and a new engine house is in contemplation. Two new plate-girder turntables were noted, one at Gloversville and the other at Fonda. There is to be a new station erected at Sacandaga Park next winter. The grass, brush and weeds are being cut and removed from the right-of-way. Considerable new crossing planks have been laid, though some instances were noted needing renewals at highways. Old stumps and track debris should be removed from right-of-way. The Broadalbin Branch, about six miles long, is in process of construction and will connect with Y at the Warren crossing, about one and a half miles south of Mayfield. This branch is expected to develop considerable traffic. The alignment is said to be easy and the grades not excessive. New retaining walls were noted recently constructed at several places. Your inspector noticed at the Spring Street coal house spur in Gloversville an empty coal car standing on quite a steep grade near the street. This should not be permitted. If the brakes or blocking were loosened, considerable damage might result. The curves along the line have been braced since the last inspection, though more of this work could be accomplished with good results. Before winter sets in, attention should be given the guard-rail fastenings at switches. Water in barrels was noted at all wooden structures, as suggested at last inspection. The bridges and trestles have received intelligent attention. Near Cranberry Creek Station is a T-rail deck truss. It is about twenty-four feet span; all these T-rail trusses have outlived their usefulness. They were constructed years ago when the motive power was much lighter than at present. They are susceptible to sudden failure, owing to lack of proper riveting space. I-beams and plate girders should replace them without delay. The minor openings have rail stringers, generally in strong condition, though some were noted appearing too shallow for span. The masonry along the line is in good condition, and not a little "pointing up" and relaying has been done. At bridge No. 2 the abutments which were laid dry originally have, since last inspection, been thoroughly grouted. They are of the old T form and scant in dimensions. A new wing protection wall was noted in course of construction upon day of inspection at bridge No. 3. The bridge seats have been cleaned, as suggested, but without constant attention they will soon become covered as before. All of the floor ties should be spaced closer, and ample-sized guard timbers placed and firmly bolted. This work is to be accomplished shortly. The wooden stringer openings, of which there are a few, were found in fair life and recently repaired. It is suggested that iron or steel and masonry replace these. One trestle was noted needing new stringers to some extent. One cattle pass and some of the open cattle-guard pits

have been closed up since the last inspection. Iron-surface guards have been placed, and the superintendent says next year will see every crossing properly protected.

GLEN HAVEN RAILROAD.

Narrow Gauge.

The president, Mr. F. P. Crouch, Rochester, N. Y., informed your inspector that without much doubt the road would not be operated this season, unless, perhaps, by electricity or compressed air. The property remains as previously reported. If anything is accomplished during the season, your inspector will be informed in ample time to give proper inspection. For detailed condition of road see report of 1893, vol. 1.

JAMESTOWN AND LAKE ERIE RAILROAD.

This road has recently changed hands, and it is claimed a number of betterments are contemplated. It is twenty-two miles long, properly single track, and extends from Jamestown along Chautauqua Lake and has connection with the Western New York and Pennsylvania Railroad at Mayville. The rail is sixty pounds per yard and eight years old. Two firemen and thirteen men try to care for this road. Five thousand ties, mostly red beech, were placed this year. The condition and life of the sleepers is anything but good. Something surely must be done to improve the condition of the road. Trains should not be allowed to run long without many more renewals. Your inspector noted so many poor decayed ties, particularly at joints unable to hold spike, that danger is imminent. The red beech stands well in this locality; chestnut and oak ties are also used. This road has been neglected so long and is in such poor condition now that a large force of men should be put on and work should be pushed as late as possible. In placing new ties, spacing, spiking, tightening bolts, surfacing, adjusting and aligning should be attended to. Gravel ballast should be placed where possible, and the wooden structures thoroughly gone over for the winter. About seven-eighths of a mile of track close to the lake which is frequently submerged is to be raised about eighteen inches this fall. This should not be delayed. Good gravel is abundant and close at hand, and much of this work should be accomplished. A branch three and a half miles long is talked of being laid from Clifton station to Falkner's on the Dunkirk, Allegany Valley and Pittsburg Railroad. If this work goes on, and it is considered sure, a large surplus of material (mostly gravel) will be placed on the Jamestown and Lake Erie Railroad. Material is needed very much to grade with, fill out on shoulders and for ballast. The rail at present is not properly spiked, the ties not spaced, and bolts quite loose, and some missing. The alignment and adjustment of track is very poor. Generally the life of the rail is in very fair condition. The fences are maintained as well as the meagre force will allow. Grass and weeds were noted pretty much along the entire road, thick and high. This is bad in wet weather, and tends to rot the ties. In many places and for long distances sleepers could not be seen well because of this growth. The switches while cared for as faithfully as the small force will allow, need

much more attention in bolting, spiking, and the like. From present appearances the ditches, with small exception, have not been touched in years. The highway warning signs need paint badly, and the superintendent said the "painter" would be along soon. Not enough care is given the various items. Crossing planks should receive more attention. Too many were noted decayed and poor. More care should be exercised in keeping the track in gauge. Cattle guards are not in use upon this road. The superintendent informed your inspector that the road being so close to the lake, stock guards were not needed. There are four passenger stations with agents, the rest being used only in summer as flag stops. Very few shims were noted under the rail, the practice of wedging up under the ties being in vogue. The "Ajax" brace is used on some curves. Lack of water was noted for fire protection both on wooden bridges, stations, and covered platforms. Spare rails were not noted at mile posts; in fact, mile posts are not in use. Clearance marks do not prevail upon this road. Derailing switches should be placed where possible. Old and decayed trees, and many large and sound ones were noted too close to the track. Trees struck by lightning or blown down would easily cause a derailment and loss of life. No delay should be allowed in removing every tree liable to fall or be blown upon the track. Large heavy limbs are also very dangerous and should be removed. Drinking water easy of access should always be kept in sitting rooms. Meagre track force precludes proper surfacing, adjustment, and alignment on the numerous sharp curves. The speed of trains while not fast is too fast for the track, roadbed and bridges. Until this road is placed in proper condition, a speed of not over eight miles an hour should be maintained. The swamp spoken of above, where it is claimed the filling is to be placed this fall, is not safe. Trains pass at about five miles an hour. Five thousand more ties are needed immediately. Your inspector would suggest that all the old Hemlock piles be closely examined, and immediate renewals made where necessary. The plank used for flooring on cattle passes and single openings should be removed and good sound ties placed, with spacing timber and ties not over six inches apart. Too many poor stringers were noted, and chances should not be taken when white pine stringers are much decayed. The factor of safety should be ample. Rail joints almost square were noted for short ways. The spacing timbers on bridge floors should be bolted more firmly—drift bolts are not strong enough. Some work was noted since the last inspection in the matter of wooden supports at single openings, but many of the structures have been neglected. One structure near Greenhurst was noted positively unsafe. The ties at the end were so far gone that a spike would not stand up, and rail joints are unsupported. Guard rail should be placed upon all the trestles and long spans. A number of the openings are now supported by piles and caps which were bents. There are too many openings upon this road. Safety and true economy would demand a large number filled and piped. Near Midway Station are fifteen bays of low trestle, eleven and twelve feet centres of caps that should at least be half filled without delay. While your inspector was looking this structure over a freight train passed and the vibration and depression were too much. A third stringer was ordered to be placed immediately, but a general overhauling should be given and spans shortened or stringers trussed if allowed

to remain. This road has been neglected so long that unless as a whole it is overhauled and placed in positive safe condition, your inspector cannot vouch for public safety. The branch from Mayville on the westerly side of the lake is not used for passengers, and the superintendent informed your inspector that it would not be operated until it is made safe beyond chance. It remains in much the same condition as when last inspected, which was then very poor.

KANONA AND PRATTSBURGH RAILROAD.

Among the improvements noted upon this line since the last inspection are 1,200 feet of new siding. The track has been raised and surfaced for some six miles. The stations have been newly painted; all the buildings in the Prattsburgh yard have been painted recently. This 11.44 miles of track has been in very poor condition. Very little has been done since this road was constructed until now. Thirty men were noted at work on day of inspection raising the track. More should be engaged. The president assured your inspector that the whole line will be free from grass, weeds and low joints before winter. The road needs ballasting and should have it before anything like an average condition can exist. Surfacing a track without ballasting it is very expensive and does not last long. This road has been very much neglected since its completion in 1889. The highway signs cannot be seen well and should be painted at once. The cattle slats and cross fences should also be attended to.. The property should be fenced in along highways and at angles with them. Stock can walk on the track from the highway in places without trouble. An accident caused by stock on the track would show neglect on the company's part. The ditches should be opened and kept open the year round. Very little, if any, has been accomplished in this item since 1889. The track is covered with grass and weeds, which is now being cleared away with an extra force. The track should be full bolted and spiked, and constant attention be paid. There can be no excuse for leaving the joints and rail insecurely fastened. The ties should be spaced so as to allow of four spikes at each angle bar. The above items will, the president promised your inspector, be attended to at once. Upon day of inspection orders were given to put on more men and place the road in first-class condition before winter. Inspection of the bridges and stringer openings developed an immediate need of attending to the decks. Floor ties were found too far apart and the tie guards not strong enough. The president promised that this would be immediately remedied. The plate girder bridges are being painted and rivets tightened. The substructures need attention. The walls need pointing up, and the bents in some instances overhauling and renewal. A false idea of economy has prevailed upon this road. That there has been no serious accident is simply good fortune. Ballasting should and ought to be forthcoming if the track is to compare with the other short roads of the State. This line is quite profitable and should be placed in good, safe condition to meet the increased demands of passenger and freight traffic. Six men and a foreman can not be expected to keep a road 11.44 miles long in safe condition that has been allowed to run down in all the important items. Where a road is in good form, one man to every mile is necessary to keep it safe and in proper condition. Great care should

be given to keep the rails properly spiked on the bridge floors. The sleeper life was noted, as far as could be seen, not strong (grass and weeds were quite thick), and in need of renewals to quite an extent. The stations were found in fair condition.

[On November 29th, a letter was received from A. E. Godeffroy, President of the Kanona & Prattsburgh R. R. Co., stating that all of the foregoing recommendations of the Inspector had been complied with.]

KAATERSKILL RAILROAD.

Narrow Gauge.

(Ulster and Delaware Railroad, Lessee.)

This line, as previously reported, is a summer road, single track, forty-pound steel rail, and with the recently constructed mile of track, to connect with the Otis Elevating Railway, is now eight and a half miles long. The maintenance of this road is very good, considerable improvement having been made since last inspection. Some grass and weeds were noted on track. The Kaaterskill station is virtually new, and the surface about it has been nicely graded. The stations are being painted. Considerable "shouldering out" has been accomplished, but more is needed in places. The ditches have received considerable attention, but they should be kept open to obtain good results. The highway grade warning signs should be painted. The superintendent says they will be placed in good condition this season. The road should receive considerable ballast material. The general sleeper life was found fair, but too many decayed ties were noted together. The adjustment of track could be bettered, though considering the slow speed, grades and curvature, the track maintenance averages well. The spiking was found full, and the bolts and joint plates well attended to. Water should be placed upon the wooden structures, and more bracing on curves. The switches were found as per last report. "Stubs"—"split points"—should replace them. Targets need painting. The approaches to trestles and bridges should be widened. The trestles were found well attended to and in strong life. The floor ties were noted strong and well spaced. Too much care cannot be given at creek crossings in anticipation of flood, water and washouts. These mountain streams should have clear spans. Bents should not be allowed in the line of current water.

KINDERHOOK AND HUDSON RAILROAD.

Some improvement since the last inspection was noted, though a great amount of work is still needed. No attention has been paid of moment to the suggestions made in 1893. Six to ten cars of gravel per week have been placed—a car in a place, or about five inches—each week this season. Much of the sub-material consists of light yellow clay, and ballast sinks into it about as fast as it is placed. A good foundation of stone would uphold the ballast, and it should be placed. Your inspector has in mind other roads where stone has accomplished this end in the same kind of material. The fifty-six pound steel rail is not much worn, though it is bent almost out of shape, both vertically and horizontally.

There are ten men on sixteen miles of road. Not enough, surely, to keep the road in anything like good safe order, particularly with so little ballast. Grass and weeds on track, need of ditching, poor alignment of rail and poor surface, all point clearly to the fact that more men should be employed. The superintendent said that men were next to impossible to obtain. It is suggested that an extra effort would enable this company to get plenty of help. The effort to ballast made in the last two years is commendable, though a foundation must first be had. The ties were noted generally in very good condition—great care has been used to have strong ties. The track is covered with grass and weeds much of the way. An effort is being made to grow sweet clover in the clay cuts to hold it from slipping. There is about six and a half miles of this clay material. Crossing planks were noted needed in a number of places. The switches were noted all split points, well locked and generally well maintained. The fences were found up, and strong as a rule. Upon a road of this kind too much care cannot be taken to keep the bolts and spikes well in. Some shimming was noted, and should be removed without delay. Some of the track has been raised out of the mud clay. Some braces were found on the curves, though more should be placed. The train speed upon this road is not great, but accidents are liable to occur with low speed unless everything is made and kept tight and firm. Grass and weeds upon the track greatly precluded close inspection of the ties and joint fastenings, and it is to be hoped enough men will be employed to keep the track clear in the future. There is no economy in slighting the track and roadbed. If this road is to be continued in operation, more attention should be given it. Cattle guards do not prevail upon this road, and there can be little excuse for it. The longest tangent is about one mile. Too many curves occur. The line could be considerably straightened. The very bad reverse curve near Niverville, recently constructed, should be abandoned, and a new and straighter line made. There are some fifteen highway grade crossings upon this sixteen miles of road. The right of way for two rods is quite narrow. There are seven single openings, and all were found in fair condition, except proper spacing of the ties on decks. The masonry was found fair, though small stones abound. This road is but five years old, and when the stringers need renewal I beams should be placed. The through iron bridges have been overhauled and painted as suggested in last report.

LAKE SHORE AND MICHIGAN SOUTHERN RAILROAD.

As stated in the last report this road is double tracked and follows along the south shore of Lake Erie, from Buffalo westerly. The improvements since the last inspection have been many, and the near future will see important changes. A new siding was noted at Ripley about 550 feet long; also about 1,000 feet in the city of Buffalo. The sleeper renewals average 400 per mile of single track. Some 25,000 have been placed so far this year. Eighty-pound steel rail, American Society pattern, five inches high and five inches base, is being laid. Four miles of it have been laid and some three miles more will be laid this season. Every siding switch has a derailing device where on preceptible grade. This im rovement is noteworthy. The device is simple and positive. Great

improvement to the line and grade is in contemplation; three-tenths per cent. grade is to be the maximum between Angola and Buffalo, about eighteen miles. About $250,000 is to be expended upon line and grade. This road is well ballasted. Amboy gravel is used, and ample quantities placed. The embankments are shouldered out well, as a rule, though a few places were noted needing more. The alignment is very good, and upon curves extra. The adjustment of track is excellent and great care is taken. These tracks are relined with transit every two years, and great care given to proper elevation on curves and easement at ends. The item of spiking was found very good, also bolts at joints. Extra care is evidently given to these important items. The ties were found in very strong life and great care given to proper spacing. The angle-bar fastenings are of good section. The fencing was found well up and carefully cared for, brush, weeds and grass receive constant attention, and the roadbed is nicely graded and sodded at edge of ballast. The switches were found well cared for, foundation good, and everything about them in good order. Targets well painted and stands firmly upheld. The guard rails at frogs and points were noted well braced and spiked. The ditching has received proper attention, and the constant work on this item shows on the track, which is almost perfect in surface. The highway warning signs at grade crossings are maintained in very good form with very few exceptions. Crossing plank at highways and farms were noted in excellent life and surface. The cattle guards are of the wooden slat form and well maintained. The cross fences, wings and slats are to be painted or whitewashed this year. This improvement will be in keeping with the extra condition of this road. The passenger stations are all nicely maintained and ample in sittings and general comfort. The structures in the roadbed were all carefully inspected and found in very strong condition. The small openings are all being closed up. Cast iron pipes are being placed where advisable. Many are being closed outright. Stone arch culverts or stone box culverts are also constructed where feasible and the roadbed made secure. This company evidently desires to eliminate all small openings. A number were recently noted filled on the flat land near Buffalo. Some ten miles of woven wire fence have been erected since 1893. The iron and steel structures were found in good order; bridge seats fairly clean and loose rivets tightened. All of the metal work is to be painted this season. In conclusion it is only proper to say that your inspector was very much pleased to see and find the permanent way so intelligently maintained.

LEBANON SPRINGS RAILROAD.

This road is in much the same condition now as when last inspected in 1893. If anything, it is more neglected. Eight thousand ties were placed, it is said, in 1894, and 7,000 this year. The sleeper life at the present time is very poor. Too many were noted so decayed that spikes did not even stay in place on day of inspection, and the rail rattled and shook as the train passed over it. At intervals some renewals were noted, though so few that little strength seemed to be added. Ties decayed to such an extent that spikes could be pulled out with one's fingers certainly do not offer much support to the rail. There are probably 140,000 ties on the main line of this road in this State, and to make the track fairly

strong at least half this number should be renewed at once. Neglect was noted in the items of bolting and spiking. Joints that require two and three bolts and two and three more spikes to properly uphold the rail, cannot be considered strong. Your inspector found a large number of joints improperly spiked and bolted. There can be no excuse offered for these conditions. Again, ties should be properly and evenly spaced, so that joint fastenings will be upheld by two ties. There are eleven miles of old iron rails and chairs. The joint fastenings are as before reported, viz.: chairs, strap plates, Fisher joint plates and angle-bars. Seventy-five or eighty carloads of gravel were placed in 1894. There is ample gravel material along the road for proper ballasting, and this work should be accomplished at once. Considerable ballasting has been accomplished. The places noted blocked up, where frost heaves the track in winter, should be built up and the ties reballasted. There can be no reasonable excuse offered for shimming, when gravel is found in large quantities along the line. There are some twenty miles of sixty-pound iron rail in use. Much of the rail upon this road is badly worn. The old iron presents a very dilapidated appearance, and it is really a wonder how the wheels remain on the rail. Your inspector was frequently informed by the officials of the road that no accidents had occurred upon it in many years. While this is no doubt true, still it is not proof that the road is safe. It is simply good luck! The traveling public are certainly entitled to positive safety, where possible. Your inspector was informed by the superintendent that the business of the road did not pay the operating expenses and safe maintenance. Assuming this to be true, and the indications would seem to warrant the assumption, what can be the reason for operating this road longer? To be sure, the people along the line desire accommodations and would no doubt take the chances of riding upon this road even though it were in worse condition, rather than be deprived of the privilege altogether. An average of two and a half men without a foreman for six miles of main track, is not enough to make any show of keeping up even a fairly good road, let alone a road which has been neglected as this has. Ballasting is extensively needed. Ditches should be opened. Grass and weeds should be removed from the track, and mowed from the right of way; shoulders should be widened. Trees and telegraph poles too near the track should be removed. Fences should be repaired and renewed. Passenger stations should be painted, overhauled, and virtually renewed, and highway signs painted and made stronger. Those blown down should be replaced by new ones. The wooden structures should be made safe by large renewals, and the iron structures painted and overhauled. The masonry should also be gone over carefully. There are a large number of open cattle guards, with stringers and decks not strong enough. Too many chances are taken by this company, in allowing stringers, sills, caps, floors, tie guards, and the like, to remain in use with very meagre sections. Timber one-half or one-quarter decayed should not be relied upon. Structures patched up with old decayed timbers, bearing with new timber, greatly lowers the factor of safety. While your inspector found a number of very fair wooden structures, yet too many were found not properly strong and firm, and needing immediate renewal to make positively safe. Sudden failures occur where chances are taken and timbers are allowed to decay beyond a safe limit. Fisher plates without nuts, and poorly spiked, were

noted. There are still eighteen or twenty stub switches in use, and they are in poor condition. Very poor surface alignment and adjustment prevails, owing to decayed ties, worn-out rail, and meager ballasting. Cross fences were noted down, and very little attention paid to keeping stock off the track. There is no device on the road to bend rails with, and, as a consequence, they do not stay in position, because ties will not hold spike sufficiently. The switch targets have not been painted this year, and general neglect was noted everywhere. Clearance marks do not prevail. Wooden braces are worthless on curves. Many guard rails at frogs are insecurely fastened. Station agents should wear some distinguishing badge. The curves are all in poor condition, with excessive "humps" and "flats." One of the worst features is the decayed material at rail joints. Sleepers, at least, should be fair at the joints. At the grade crossing with the Fitchburg Railroad, a station is maintained by the Fitchburg company, and one man tries to take care of the crossing and attend the business of both roads. Your inspector is fearful that one man cannot properly do the work and at all times maintain safety. The crossing plank along the line should be renewed. It is now very much decayed. Considerable of the rail along the road leans badly at top, owing to decayed ties. The scheduled time of trains does not show much speed; but, to allow the crews to do their work at the various stations, considerable speed is made at times between stations. Your inspector was informed by the superintendent that hopes are entertained of bettering the road in the near future. However, in view of the present neglected condition of the road, it is suggested that it be not operated until it is placed in good form and made positively safe. If it is allowed to continue in operation in its present condition, your inspector cannot vouch for the safety of those who travel upon it.

This road, although sold under mortgage foreclosure, is still in the hands of the receiver pending reorganization. The receiver assured the Board that everything possible would be done at once to place the road in safe condition for operation during the winter, which was accepted as satisfactory, with the understanding that when reorganized the road will be practically reconstructed.

LEHIGH AND HUDSON RIVER RAILROAD.

This 14.5 miles of single track road in this State is not improved and kept up as it should be. Many of the suggestions made at previous inspection have not been noticed. Two miles of very good gravel ballast have been obtained and will be placed soon. Some 1,900 chestnut and oak ties have been placed so far, and 3,000 more will be before winter. Four stub switches still remain. These were promised to be removed at last inspection. The superintendent said they would surely be removed before winter. There are seventeen highway grade crossings. Thirteen trackmen are employed on the 14.5 miles of road. The fences were found in very fair condition where stock was. Three of the seven stations have been reroofed and generally overhauled. New stations have been erected at Warwick and New Milford. The Warwick station is very well de-

signed, and constructed largely of stone, and has many conveniences. Your inspector was surprised to find the rail joints very much neglected, bolts gone and an excessive number loose. The spiking is not what it should be. For quite a distance nuts were noted upon inside of rail. Three new warning signs have been erected this year. The crossing plank was noted needing considerable attention. The spacing of ties referred to in last report has not been attended to. It is to be remembered that an accident can easily occur unless the rail joints are properly upheld. Quite a number of angle bars were noted not spiked on one side. Your inspector is well aware that even without every spike and bolt in place, the rail will sometimes remain intact for a considerable time—in fact, years may pass without derailed truck or accident—but an accident is much more liable to occur when bolts and spikes are missing and loose. Too much care cannot be taken in keeping the rail firmly in place upon sound, well-bedded ties. Your inspector would earnestly urge that this company keep their rail properly bolted and spiked and in firm bearing. Some ties were noted very poor in life; in fact, too many were found decayed beyond the limit Many of the highway warning signs were found very poor and in need of immediate attention. Ballasting is needed in many places and for quite long distances. Spare rails were noted up at intervals along the line to some extent. Grass and weeds have been cut. The guard rails at frogs should have more attention paid them to insure proper strength. There has been no new side or spur track laid since the last inspection. Wooden braces should be removed and iron or steel substituted; wood is not strong enough—is not reliable, not lasting; and there can be but little excuse for using them when iron is so cheap. The shimming should be removed. It is only a makeshift, and very liable to cause accident. All shims should be removed in the spring as soon as the frost leaves the ground. Summer shimming is productive of much harm. It is a very poor excuse for ballast. The traveling public is entitled to safer maintenance. The superintendent promised your inspector that many of the single-span openings would be protected with iron beams the coming winter. Attention is called to properly keeping the targets well painted. The switches are generally well cared for, though bolts and spiking should receive more attention. There are, including the open-pit cattle guards, forty-eight single openings in this 14.5 miles of road. An excessive number and the majority needing immediate attention. The old loose dry walls are badly shaken, and your inspector urgently suggests that if many of them cannot be filled that they be relaid with large stone and hydraulic cement mortar without delay. Much work and material is also needed in floor ties, stringers, wall plates and tie guards. Good strong tie guards, well bolted to the ties, are very essential. They keep the ties in place and tend to keep a derailed truck from doing great damage. Guard rail should also be placed upon all of the larger structures. The light iron pony truss bridges should all be thoroughly overhauled and made amply strong. The stone bridge passenger station should not be allowed to remain in its present condition. The floor is patched badly. The doors are very poor, and, in fact, the whole structure has outlived its usefulness. Quite a number of tickets are sold here weekly, and the public should have at least a comfortable place to wait in.

LITTLE FALLS AND DOLGEVILLE RAILROAD.

Since the last inspection in 1893 many permanent improvements have been made; among them were noted extra supporting walls near Little Falls in the rock cut. These walls are laid dry, but of large stone with "spalls" well utilized for "chinking." The proportion of "headers" and "stretchers" is good, and the stone well fashioned before being placed. The original construction was not good, not a few of the walls being too thin for the height; some were noted upon day of inspection bulging considerable and needing immediate attention. The iron structures (detailed in report of 1893), were found in very good condition and well cared for; need of cleaning at ends being the only criticism. The minor openings, including cattle passes and water ways, remain in good sound condition. These wooden structures should not be renewed with wood. Stone masonry and I beams should be utilized, both for economy and permanency. The mud sills of a number of them were noted covered with dirt, which precludes proper inspection and renewal. The work of filling the larger trestles is steadily going on, though slowly. The Crum Creek structure is quite high, and should be filled without delay. One of the cattle passes is to be filled in May. At Little Falls arrangements are being made to land passengers opposite the new station recently erected by the New York Central Company on what was track No. 4. This will give greatly increased accommodation to the patrons of the road. Tickets are now to be obtained at the New York Central and Hudson River Railroad station. The ballast was found ample, of good-sized stone, and nicely surfaced. The remaining mile is to be ballasted this season. The ties, spiking, rail, joint fastenings and adjustment were carefully noted, and found well maintained. The clay cuts are being cleaned out, and steps are being taken to flatten the slopes. The ditching is being attended to, and the roadbed generally is being given proper attention. The targets, cross fences and highway warning signs are to be painted shortly. New stock guards were noted of iron and of good design. Iron piping has been placed where were vitrified pipe lines. The running time for this ten and one-half mile road is thirty-five minutes, and the motive power is not extra heavy. The structures show evidences of great care and watchfulness, and your inspector was pleased to note a general desire manifest by the officials to keep everything in order.

MIDDLESEX VALLEY RAILROAD.

This line is single track, standard gauge, and extends from Geneva near the Lehigh Valley station, to Naples, a distance of thirty miles, and is laid with sixty-pound steel rail. From Naples to Stanley, or the grade crossing of the Northern Central Railroad, twenty-two miles, was constructed recently, and operation began September, 1892. From Stanley to Geneva was opened and train service began October first of this year. The whole road is upon the old Geneva and Hornellsville Railroad right of way. The average width of the property is four rods, or sixty-six feet. The alignment is fair, and grades not heavy. The rail is of good cross section, and the sleepers are of good size and laid fairly close for weight of motive power and traffic of road. Two passenger trains each way

daily, and one local freight train attends to the business at present. The freight includes grapes, stock, grain, potatoes, hay, coal and general farm products. The eight-mile extension at the Geneva end was not, upon day of inspection, October 3, 1894, in completed form, though nearly so. The percentage of curvature is small, being perhaps not more than seven per cent., and not sharp. The company at present owns two locomotives, two passenger coaches, one combination and two box cars. The heaviest engine, loaded and ready to run, weighs close to seventy-five tons. The cross ties consist largely of cedar upon old line, and yellow pine and white oak upon the extension. Only one stub switch was found, it being at Stanley. It is to be replaced with a "split point," of which style all the rest are. The switch guard rails have two and three braces each. The highway grade crossing signs were found up in general good position and condition. Turn-tables of iron were noted at Geneva and Naples, sixty feet long and in good order. The rail joints are fastened with angle bars, weighing forty pounds per pair, and extending over two ties—four bolts per pair, and were in place upon entire road. There was no ballast of moment noted, and the banks need widening in many places along the line. The manager informed your inspector that next year ballast would be placed and the roadbed made in proper form. The fences were found well maintained, of wire and posts. The cross fences are of wire, well up, but needing longer posts near track and wings. This is to be done right away. The joints are staggered. The cuts need opening and grading. It is to be remembered that until good ballast material is forthcoming much attention should be paid to proper drainage. Very important at any time, it perhaps is most important while the road is unballasted. The cattle guards are of wood and very well maintained. Grass, weeds, and brush were noted cut and removed in places. More attention should be given this item. The right of way while generally in orderly condition, should be cleared of all old stumps, etc. The crossing planks were found well placed and in strong life and also amply long. The switch targets should be kept painted well. Timber sluices under embankments will be found very costly when decay sets in. It is not good or permanent construction. Stone or iron would be found much cheaper in the long run. The fence posts are about sixteen feet apart. This is too far; eight feet is considered now by all large roads to be far enough. More care should be given the item of spiking. Loose rails are not particularly safe. The track force does not seem large enough from indications along the line. More work should be done along the track. Vertical kinking was noted all along the line. New rails are greatly damaged by being run over before ballast is placed. The Naples end is in better condition than elsewhere. The telegraph poles for a distance along the track are too near for absolute safety. There are no clearance marks at switches. These should be placed without delay; also mile, whistle, and section posts. The manager says the road is to be brought up to the standard in the near future. There are too many openings in the roadbed. There are between Naples and Stanley twenty-three trestles, ranging from two to five bays each; thirty-five single openings, ranging from two to ten feet span, and one deck lattice iron bridge. Local white pine is used largely for stringers 7x14 inches, and two and three under each rail, depending upon spans. The bents are largely white oak. Many of the openings should be piped and

filled in. Longitudinal bracing should be placed between bents. There is no masonry. Elevation was noted upon floors where curves occur. This should not be allowed. The difference in the bids for constructing the overhead bridges between iron and wood, your inspector was informed, should have warranted iron for economy and permanency. The bridge over Flint Creek is a deck lattice iron structure; it looks too light. It is supported by wooden abutments. A new and heavier iron bridge is to be erected at this point. No delay should be allowed in placing the new bridge. The present one while considered by some fairly strong, is not, in the judgment of your inspector, strong enough. Stone abutments should also be erected. Wood is but a makeshift at best, and great chances are taken in using it, to say nothing of poor economy. The general construction of the wooden bridges and trestles is fair, but I beams and stonework should replace many of them when time for renewal occurs. The passenger stations are apparently ample, and have as good accommodations as perhaps could be expected until another year when considerable improvement is to be looked for. The stations should have names painted in conspicuous places. The Rushville station is brand new, the old one having been burned last August. The present management evidently intend to place this property in good permanent condition as soon as possible.

MOUNT MCGREGOR RAILROAD.

Narrow Gauge.

This property remains in much the same condition as when inspected last year, though the trestles upon the mountain side are being placed in safe condition, and a desire upon the part of the superintendent to make all points safe was noted. The rails remain in the same unsafe position, *i. e.*, leaning outward at top, as previously reported. The owners of this property evidently do not realize the true conditions as regards the rail. New and heavier material should be purchased and placed immediately at the more dangerous points. Most, if not all, the trestles occur at sharp curves down the mountain side, and any accident to the running parts would lead to very disastrous results. There has not been any accident as yet, but immunity is a matter of surprise, everything considered. It is intended to replace the wooden deck truss in Saratoga with an iron structure this season if possible. So much has been said in previous reports about the leaning rail, and so little has been accomplished to remedy it, it would seem about time something was done toward placing this track in safe condition. The sleeper life was found in fair condition and the ties fairly spaced. In June a bad washout occurred at what is called Wilton's Creek, and some fifteen bays of new trestle were necessitated. This point is now safe. The brush and trees should be cleared from the right of way and care taken to keep the fences up. The care and watchfulness given the structures by the superintendent and his assistant is to be commended, and it is sincerely hoped immediate steps will be taken by the owners to make this road absolutely safe.

SPECIAL INSPECTION.

To the Honorable the State Board of Railroad Commissioners, Albany, N. Y.:

GENTLEMEN.—Agreeable with instructions your inspector has made a careful examination of the Mount McGregor Railroad and would most respectfully report as follows: Since the last inspection this spring there has been considerable work accomplished in renewing and overhauling the trestle work—new stringers, bents, braces and flooring, have been placed where needed, and to-day, July 3d, the structures appear in strong condition. Water will, it was promised, be placed at frequent intervals upon the trestles, and guard timbers also will be placed. Extra care, evidently, has been taken to renew every piece of timber decayed near the limit. The small openings, of which there are a few, should have stone abutments and I-beams. They are now all wood and fairly safe. The wooden bridge over street in Saratoga looks strong for the style and kind, but no delay should be allowed in purchasing an iron or steel girder one for this location.

Rail.—The rail remains as previously reported, *i. e.*, out of plumb, alignment and adjustment. It is too light and worn. Your inspector would suggest new rail, of not less than fifty-six pound per lineal yard, between Saratoga and Wilton, or base of the mountain, and seventy pound up the mountain. The grades for the four and one-half miles up the mountain are excessive—being approximately two hundred feet per mile; one grade for a short distance is over two hundred and forty feet per mile. The grade from Saratoga to Wilton is quite easy as a close rule.

Fire.—The debris about the bottom of the trestles should be removed. The chances of danger from fire along the mountain line are many at best, owing to the extreme dryness of brush, shrubs and grass, and the old trestle timbers lying around only increases the danger. Trestle No. 9 was found practically renewed. The superintendent said that one man, and sometimes two, are constantly along the track and trestles on the mountain during train hours.

Sleepers.—The ties were found considerably renewed. The cross section of many are not ample. Many were noted not even flattened for tie bearing. These round ties should be replaced with hewn ties of ample section. The present spacing is not regular. In many places the "sleepers" are too far apart for the sandy material composing the roadbed. While many renewals were noted, too many were found unsound beyond the limit.

Joint Fastenings.—The rail joints are held by four-bolt strap-iron. Many bolts were noted missing and some were found loose. The spiking at joints was generally noted fair, though not a few decayed ties were found unable to firmly hold the spikes.

Track Force.—During the summer months, five men and a foreman attend to ten and a half miles of track, four and a half of which are up a steep mountain side, with heavy grades and many curves excessively sharp. There should be at least eight men. Ten would be much better and more economical. If this road is allowed to operate the present season or any part of it, more men should be placed upon the track. An engine and two cars should compose a train, and a very low rate of speed be maintained. Trains should only pass at one point. In

handling a large crowd, frequent trains would seem admissible. Great care should be given the track upon the sharp curves, and material should be placed to widen out the shoulders so as to increase, as much as possible, the bearing strength of the ties. Many of the cast-iron rail braces were noted cracked, and not properly spiked. Too much care cannot be taken, it should be remembered, in making positive, proper rigidity, particularly upon the mountain curves, where so many rails were noted kinked, vertically and horizontally, and "flats" and "humps" noted, occurring every few feet along each curve. The rerailing of this road could easily be carried on without disturbing the movement of trains, though its location presents some unusual conditions.

Respectfully submitted,

F. K. BAXTER,

Dated ALBANY, *July 3rd*, 1895. *Inspector.*

NEW YORK, LAKE ERIE AND WESTERN RAILROAD.

The inspection of this system began at the Jersey State line, and the examination shows great improvement since the last inspection in 1892, particularly upon the main line.

Eastern Division.

From Jersey State line to Nyack, about six miles, single track, old sixty-three pound steel rail; still in very good condition, considering age and wear. The sleeper life was found very good, only a few decayed ties were noted. Grass and weeds have not been cut this year from right of way. Very little ditching has been done this year. The track force is meagre, and the grass and weeds on the track, while not high or thick, show it. The ditches, while not extra poor, need attention. The highway grade crossing signs were noted up in general good condition. Signs should be kept bright in paint, firm in the ground, and in plain view. Trees and telegraph poles were noted too close to the track for safety, for if struck by lightning or high wind, they would easily cause derailment. Trees and telegraph poles should be kept far enough away from the track to insure their not falling or being blown upon it. Your inspector is well aware years might pass without danger from the above causes, but again, loss of life might occur at any moment. The track was noted in comparatively fair surface, bolts ample and fairly tightened, and spiking strong and full; ties very well spaced, good section and close together. Too much care cannot be taken in keeping the above mentioned items well in hand. Considerable ballast material is needed upon this branch, and your inspector was informed another year would without doubt see this branch greatly improved. A new metal turn-table was noted at Nyack in place of the old wooden one. The passenger stations were found in very good repair, neat and clean. The structures in the roadbed were found in general good condition, with good floors and strong masonry.

Piermont Branch—Eastern Division.

Four trains each way daily care for the traffic upon this branch. It extends from the Hudson River at Piermont to the main line at Suffern, a distance of about eighteen miles. It is laid with old sixty-three pound

steel rail in fair condition off the main line. The sleeper life was noted very good, taken as a whole, though a number of poor ties were noted. Considering the business, this branch is fairly maintained. Bolts should be full at rail joints and be kept tightened. Joint fastenings should also be well spiked on good, sound ties. Too many ties at joints were found not firm. Very little, if any, ballasting has been done in the last two or three years. Ballasting is needed, of course, to keep the track in good surface. In another year, perhaps, this very important item will be attended to. Shoulders need widening. There are twelve men and three foremen on this track, which, it would seem, is not enough to do the work expected, and do it well. While, perhaps, this line is fairly maintained for the amount of traffic, close attention could make it much safer. Your inspector was informed that the grass and weeds had been mowed twice this year. When rail joints are found minus bolts and spikes, ties are not over strong, and, laid on poor ballast, the safe conditions are not good. Trees and telegraph poles were noted too close to the track for safety. Wooden rail braces should not be allowed. They are not to be relied upon, and decay very quick. Derailing devices were noted on sidings having grade. The ditches, if well opened, assist greatly in keeping up a poorly ballasted roadbed. The renewal of ties was noted good. Cattle guards should be maintained, as many places were found unprotected. The highway crossing signs were noted good, as a rule. This company has recently designed a standard sign for highways. A few have been erected, and the letters appear too small. The bridges were found in safe condition at present. The trestles, of which there are several, appeared on day of inspection in fair life, except, perhaps, a few floor ties and an occasional tie-guard. The stringers are generally covered with sheet iron, to protect them from fire. Near Talemans was noted a minor opening with new I-beams instead of wooden stringers. The passenger stations were found in ordinary condition.

Newburgh Branch—Eastern Division.

This branch has connection with the main line at Turners and Greycourt, has a junction at Vail's Gate, and continues on to Newburgh. Considerable improvement was noted, and another year will see many needed things accomplished. These lines have large traffic, and considerable care is taken to keep the track in very good condition. Large quantities of cinder ballast were noted. The sleeper life, as a whole, was noted very good, though quite a number were noted too far gone. The year's renewals have not quite been placed yet, and not a few were found scattered along and to be placed soon. Between Vail's Gate and Greycourt, the officials said, eighty-pound steel would probably be placed with Servis tie plates on curves this fall. Between Newburgh and Vail's Gate are double tracks. Crossing-plank were noted in need of renewal. Generally, this item is well cared for. The highway signs were noted conspicuous, and in good life. Trees should not be allowed too near the track. Instances where trees stand a foot or so off the right of way line, and are still in position, owing to height and condition, to fall or be blown upon the track, should be purchased and cut down. Stock guards were noted generally in good form. Some, however, require attention, and several new ones are needed. The fences were found up in good

condition, as a rule, though not a few instances were noted needing attention. Fence posts are too far apart for stiffness and long life. The culverts under the embankments are watched carefully, and repaired as soon as defects are found. One arch culvert was noted with leaning parapet, which, it was said, will be immediately relaid. Care enough is not taken to keep the angle-bars full spiked. This is very important, and should be attended to at once. The joint bolts were noted very well cared for, ample numbers, and quite tight, with very few exceptions. Near Salisbury Mills the roadbed is very well graded, and in good form. No time should be lost in properly spacing ties. The excuses offered many times are not tenable. Your inspector is well aware that everything cannot be accomplished at one time, but enough help should be always on hand to keep the track positively safe, and not allow important items, such as spacing ties, ample spiking and bolting, and the like, to be neglected. The switches were noted very well cared for, with few exceptions. Spiking and bolting should be ample at these points, to hold the parts in positively safe condition. Clearance marks at switches do not prevail upon any of the lines of this company. Considerable filling out on shoulders was noted necessary at various points. The passenger stations are well maintained with few exceptions, and the accommodations are fair. Drinking water should be kept in the sitting-rooms at all times. The structures upon this branch are kept up in very good condition, and upon day of inspection were noted fairly safe. Some, however, need attention. Girders and metal supports should be kept free from cinders and dirt, and surfaces painted. Floors were found in very good life and well renewed. The wooden stringers are being gradually eliminated, and I-beams and built girders are being inserted. Some of the small openings are being closed by inserting cast-iron pipe and filling in. Leaning masonry, and poor, small stone work, should be attended to. Your inspector was pleased to note a general desire upon the part of officials to close attention in trying to keep things in good form and safe.

Montgomery and Pine Island Branches—Eastern Division.

While these branches remain in much the same condition as when last inspected, many changes for the better have taken place, including Bridge No. 1, which is a trussed stringer opening. A new deck-plate girder will be placed here this fall. While the old stringers are not unsafe, yet the new girders are needed. The tie renewals this year are quite large, and when all are in for the winter the track will be in very fair condition. Some over-decayed ties were noted, but not many or at very important places. The renewals are said to average 400 per mile. Considerable fencing has been accomplished. Your inspector would suggest that where the track parallels, or is close to highways, a fence should be certainly maintained. Two new bridges in roadbed and one overhead were noted. There are a number of minor openings, and an effort should be made to close as many of them as possible. Telegraph poles should not be allowed close enough to the track to cause accident by falling upon it. Light traffic prevails—necessitating few trains. The sub-structures upon these branches should be attended to at once. Most of the wooden structures have been renewed since 1892. The rail is

about sixty-pound steel and in fair condition, though quite old. Bolts and spiking were found well attended to as a rule. Your inspector would, however, suggest that every joint be fully bolted and spiked, no excuse can be offered for this neglect. Joints not full spiked and bolted may not cause derailment for some time, and wheels may stay on the rail with joints imperfectly fastened for many months, perhaps, but chances are taken which should not be; even with good ballast, sound ties and heavy rail, the joints should always be kept full spiked and bolted. Stub switches should be removed as soon as possible. Considerable ballast is needed, and the officials informed your inspector next year would see not only these branches but all the others greatly benefited in this item. The last three years has seen many if not all the small structures overhauled and repaired. Grass and weeds were noted between the rails, but not high or thick. While this item, when not long enough to cover the rails, is not a great detriment to the road, yet it should not be allowed for many reasons, chief among which is the holding of moisture upon and around the ties. Care should be taken to cut overhanging trees away. Lightning and high winds could easily cause great harm. Your inspector did not note shimming of any account. As quick as the frost leaves the ground in the spring shims should be removed and not allowed in again during the summer, or until the frost comes again. Not a few derailments are caused by loose shims, insecurely spiked angle bars, and improper bolting. The passenger stations were found very well cared for as a rule. Drinking water should be always at hand in sitting-rooms. Windows and the interiors should be cleaned sufficiently often to ensure comfort.

Crawford Branch.

Some improvements were noted upon this branch since last inspection, including quite a large number of tie renewals. The officials informed your inspector that all of the minor structures in the roadbed have been renewed since 1892. Their appearance seemed to prove this. New warning signs were noted with the small letters. Some filling of small openings has been accomplished and more is promised in another year. Two trains each way daily care for the traffic. Five men care for the ten miles of track. Many ties were noted much decayed. Still, the renewals at joints and switches are large. An old milk station building noted on the line is to be removed, and should be. Trees were noted too near track for safety. Grass and weeds were found on track to some extent. Steel switches are in use, to some extent. Another year, your inspector was informed, will see these removed. Highway warning signs were found in fair condition. This line needs ballasting, grading and shoulders filled out. The alignment, surface and adjustment of track is fair, considering the track force, age and condition of rails and ballast. The spiking and bolting was found well in places, though neglect was noted in too many instances. Fences were found fairly maintained in the general sense. The right of way should, however, be properly fenced its entire length. Not enough attention is paid to proper drainage, though some ditching was noted done. The switches should, at all times be full spiked and firmly in place. Considerable attention has been given the item of crossing plank. This is an important item.

Stock guards should be given strict attention. The right of way, generally, was found tidy and free from track debris. Rails for renewal were noted in places. Clearance marks were found missing. The small stone, comprising not a little of the masonry at minor openings, should be renewed and cement used. The leaning walls should be taken down and relaid.

Main Line—Eastern Division.

This division extends from Jersey City to Port Jervis, about ninety miles, and is double track, some sixty miles of it being in the State of New York. Considerable improvement was noted upon day of inspection as having been made since the last inspection. Thirteen and one-fourth miles of ninety-pound steel rail has been laid near Port Jervis of the American Society pattern, and appears well in surface and adjustment. Among other betterments were noted five miles of new stone ballast and about thirteen miles raised perhaps three inches by cleaning and retieing; four new interlocking plants near Southfield station took out a six-degree curve and modified the alignment so as to made a two-degree curve. There is a new wooden turntable at Goshen. The tie renewals have been quite ample this year to place both tracks in excellent condition. Standard ties are 7"x9"x8½ feet long. Large quantities of yellow pine are being used. Little criticism could be found in the item of sleeper life, still a few were noted not strong. The ties were noted closely laid, of good form, and well up to the specifications. All but about ten miles of this division has stone ballast. Opinions vary not a little as to the benefits of stone ballast. The stone ballast upon this road would seem to be too large for the best practical results. Much can be said upon this very important and interesting subject, and good arguments for and against are not difficult to find. Two of the important features, however, favorable to this kind of material, from the traveling public standpoint, are easy riding and freedom from dust. If everything coming from the stone crusher, screenings and all, were placed, many argue, better results would surely follow. This division was found well graded, and great care is taken in attention to shouldering out and rounding off. The adjustment, alignment, surface, spiking, and bolting of the tracks were noted almost perfect. Little fault could be found upon either track or any of the important items. The switches were found well cared for, and everything about them with very few exceptions in excellent order. Too much care cannot be taken in keeping spikes and bolts well in place around the frogs and points. The switch sleepers and stand timbers were found very strong, and the few exceptions noted have received proper attention. The seventy-four-pound steel rail appears well, and the angle bars were found with good section and firmly spiked and bolted. The fences were found where maintained by this company in very good condition. Not a little of this system in our State is supposed to be fenced by the adjacent land owners. While they attend to this item in a measure, long intervals were noted without any signs of fencing. Grass and weeds are mowed twice a year, and upon day of inspection very little fault could be found with the appearance of the property from one fence line to the other. The item of proper drainage has received very intelligent treatment, and it is a pleasure to note the care given

it. It is very evident the officials of this company appreciate the great necessity of keeping its roadbed well drained. The highway grade crossing signs were found up very well indeed, well painted, conspicuous in position, and firmly upheld with very few exceptions. The letters of some seemed not over six or seven inches high. These, your inspector was informed, were designed to be the new standard. The letters could be seen much plainer if nine inches high. The important items of crossing plank at highways and farms were noted very well cared for in the main. Very few instances were found needing renewals, though repairs were noted needed at not a few places. Great care should at all times be given this item. Stock guards were noted well attended to, though instances were found in need of attention. The question of stock guards that will surely turn cattle is one much mooted. The ordinary wooden slats do not seem to fully answer the purpose. Slats to be positive, must certainly be long enough to prevent stock from jumping over them, and they should also be high and wide enough, with ragged edges, to prevent being walked upon. The wings and cross fences should also be constructed of firm material and strongly upheld. Not enough care is given this important item. The stone arch culverts, your inspector was informed, were all closely looked over during the summer and needed repairs made, pointing up, relaying and the like. Your inspector was very much pleased to note the absence of shims or blocking under the rails. Bracing upon curves was noted to some extent, and at points where needed, tie plates and bracing were found ample. The right of way was noted orderly, and well picked up. Spare rails in case of accident are kept along the roadbed at mile posts upon brackets. Very few were noted missing, and these, your inspector was informed, would be placed immediately. This is a very important item, and great care should be given in keeping at all times a length for renewal in case of breakage Clearance marks at sidings do not prevail upon this or other divisions. Thin boards laid between ties at the proper distance will not allow of tripping or stumbling and would, without doubt, amply repay the trouble of keeping them in place. Many of the sidings having grade are supplied with derailing switches and clearance marks. At such points clearance marks are not needed, but sidings, under other conditions, marked thus, would be much more safe. The passenger stations were found, as a rule, very well maintained and in orderly condition. Ample water for fire protection is kept close at hand and drinking water was found in nearly every sitting-room. The curves have transition and ride very easy. The structures upon this division are entirely steel and iron. The minor openings are spanned with rolled I-beams or built girders resting upon good, sound masonry of large stone. The decks are well made and ties are spaced six inches, which is the standard upon this road. The large structures consist of trusses and girders all in good form. The question of properly protecting the metal with paint is of great importance. Your inspector is well aware of the difficulty in obtaining good paint. The coloring material and oil is not good. Body is what is needed, and so-called paint or asphaltic mixture that does not have ample body material is not fit for protecting metal. Metal should be well coated in the shop with good material, and then, when in position, coated often enough with body material to keep the rust from forming. Many of the companies coat their structures as often

as every two years. Many iron bridges were noted new since the last inspection and all were found in good form. Ends should be kept clean and free from cinders and dirt. Bridge floors were noted with spike in every tie.

Main Line—Delaware Division.

This division extends from Port Jervis to Susquehanna, a distance of 104 miles, part of which is in the State of Pennsylvania from near mile-post 91 to 118. There has been considerable improvement since 1892, including five new block signals in the Port Jervis yard, one mile of siding in Port Jervis. Much surfacing with broken stone and screenings around stations. Large amount of draining with brick tile three inches in diameter in wet cuts. About one fifth of this division is stone ballasted and the rest gravel and cinders. The sleeper life was noted strong, and very few poor ties were noted. The year's renewals are about in. Four hundred per mile per year is about the average. Yellow pine is being used and good results are expected of it. The stone ballasting averages as large as upon the Eastern Division. The gravel and cinders are placed in ample quantities, and the tracks were noted in extra surface and adjustment. This division has very little tangent line, and requires close attention, owing to excessive curvature. Tie plates are being used, it is said, with good results. Mechanical grading and ditching is being accomplished by means of a blade attached to a flat car and moved at a speed of about four and a half miles per hour. Levers are used to guide the blade, and obstacles are easily evaded. In fills the blade leaves the surface sloping outward so as to shed the water, and in cuts forms a ditch of very fair dimensions. In soft material there can be no reason why this device will not do the work of many men. It is claimed, as an instance, twenty-one miles of one-side ditching was accomplished in one day. Trimming by the track force after the machine has passed is easily attended to. The appearance of ditches thus graded is very good, and there can be little doubt but that great results will follow when this apparatus is perfected. The work of draining the wet cuts and places is steadily going forward, though six-inch tile would seem better than the three-inch. In either event the tile should be laid upon boards with broken joints if great stability is desired. While very few joints were noted with scant spiking, the bolts were noted quite ample and tight. Great care should be given this very important item. The fences were found well attended to, though much of this division is so close to the Delaware River that little fencing is needed for much of the way. Grass and weeds have received attention, and before snow will be entirely cleaned away. The switches were found well cared for, as a rule, a few instances were noted needing more spikes, and a few bolts were noted missing. Extra care should be given to keeping the switches firm and safe. The ties and stand timbers were found, with few exceptions, very well maintained. The highway grade crossing signs were found well up as a rule; some, however, were not as conspicuous as could be desired. Some of the small-lettered signs were noted. Crossing plank need attention in some instances, though generally they were found strong and in good position.

The culverts under embankments, from all indications, were in good condition. A close inspection was given them this season and needed repairs made. Cattle guards were found, with few exceptions, very well maintained. The passenger stations were found much as previously reported. Ordinary repairs are kept up, and while paint and minor repairs, such as new window lights, conductor pipes and the like, were noted in some instances as needed, the stations upon this division, as a rule, were found in good condition. Shims are evidently not allowed under the rail upon this division. Not one was noted. The right of way was found well cleared of loose stuff, and grass, weeds and brush well removed. Spare rails were noted at mile posts in case of accident. It is very important that rails be kept at every mile post. Clearance marks were not noted. Derailing switches have been placed at all needed points. Facing switches have, upon this division as upon the Eastern, been removed where possible. Trees or telegraph poles that stand too close to the tracks should be removed; chances should not be taken. While derailment might not occur from this cause for a long period, yet it might occur any moment and cause great loss of life. Drinking water should be kept in every sitting-room at stations. The trouble is not much and the convenience to those waiting for trains very great. Water should also be kept constantly on hand as a protection against fire. This rule is followed quite carefully where roofs are of wood, but constant attention is needed. Your inspector cannot pass by the question of curve adjustment without referring to this division. The officials of some other roads would do well to visit this part of the road and see and feel the difference between riding upon improperly adjusted curves and those properly adjusted. Some of the roads of this State fail to elevate sufficiently for speed maintained. Where possible, all of the curves of this division have been tapered also. The bridges and small openings should be spiked upon every tie. The rail upon structures cannot be held too firm, and great care should also be given to spike every angle bar amply. The larger bridges were found in good condition, as were the minor ones. I-beams were being placed in quite a few. New floors were also noted. Elevation blocking under the floor ties were also noted on curves. Blocking upon the ties is dangerous and should not be allowed. Your inspector was pleased to see the curves upon this division elevated properly upon structures. Great care is taken along the river to protect the tracks from falling and sliding material upon the mountain side. Watchmen are employed and draining resorted to where good can be done. This division is particularly difficult to maintain safely. Some eight block-signal towers have been closed temporarily.

Main Line—Susquehanna Division.

This division has about ten miles of road in Pennsylvania, is also double tracked and has seventy-four and eighty pound steel rail. Great improvement was noted here, including forty miles of eighty pound steel rail since the fall of 1893. All signs and marks were painted within the last four months. There is not a facing switch except in a large yard now on this division. Large quantities of tile six inches in diameter have been laid in wet cuts and much more is to be laid. This tile is laid upon thin plank, and a pole slightly less in diameter than the pipe is used to keep it in alignment and

grade while tamping to place. Upon day of inspection there were still about 8,000 ties to go in before winter. Your inspector noted an electric gong recently placed, as your honorable body suggested, at the Binghamton Insane Asylum grade crossing. Immediately next the right of way line, between Binghamton and Union, was noted a new electric trolley line in course of construction. The distance is about twelve miles, and much of the work is quite costly. Considerable trestle work is being done. and next the river, rip-rapping and filling will no doubt be resorted to, besides considerable earth cut and fill. About fifty single track miles of ballasting placed in 1894, and some sixty-six single track miles of ballasting placed in 1895, besides an average of forty-four carloads of cinders for ballast per week. Fourteen block towers have been temporarily abandoned. The sleeper life upon this division is as good as that east of it. The ballast material is amply placed and the roadbed nicely graded, with few exceptions. The alignment, surface and adjustment of tracks was found very good, and evinced close attention and intelligent treatment. More care should be given to spiking the angle bars. Bolts at joints were found full and very firm. The few noted loose or missing were ordered in at once. The rail is of good section and wears well, though softer, perhaps, than was desired or expected. The fences, where maintained by the company, were found very well in hand. Grass and weeds have been mowed and the right of way appeared upon day of inspection in neat, orderly form. The switches (split points) were found in excellent condition and close attention is given to keep them as safe as possible. Great care should be given to replace with new the broken or imperfect spikes as soon as noticed. The ditches have been well opened and graded and the water quickly finds its way off and away from the roadbed. The warning signs were noted conspicuously situated and firmly upheld. Extra care should be given to keep foliage and brush away from them. Some crossing plank were found somewhat decayed and out of place, though as a very close rule this item is in extra condition. The stone arch culverts have been overhauled where needed the past season, and are now in good condition. Stock guards, wings and cross fences were found well attended to, though instances were noted needing immediate attention. The passenger stations were found well attended to in ordinary repairs, neat and clean. Drinking water should always be kept at stations. Shims were not noted in use upon this division. Spare rails are kept at short intervals in case of accident or breakage, as upon the other divisions east. Derailing switches are in use at all sidings having grade or that are used to store or hold cars. Clearance marks do not prevail at sidings. Your inspector would suggest that all trees or telegraph poles standing near enough to the tracks to be blown or fall upon them should be removed at once. The curves upon this division also have transition. The bridges erected since the last inspection were all found, as far as could be seen, in excellent condition. The minor openings all have good floors and are cared for very intelligently. The rails upon floors as a rule are spiked at every tie, and the joints full bolted and spiked. The masonry has received attention and was found consisting of good, sound, well-laid stone. Girders should be free from back walls and great care given to keep all points free from cinders and dirt that will hold water. Wooden stringers were not noted upon the main line. Metal should be kept well painted with body material. This division, like those eastward, is intelligently managed and the best results obtained in each item.

Tioga Division.

This division is, as stated in last report, almost entirely in the State of Pennsylvania, there being but some four and a half miles in New York. Some improvement was noted, though it remains in much the same condition as when last inspected. One opening, poorly situated, with old timbers, has been filled. The sleeper life was found in good strength, as a rule, though over-decayed ties were noted. The renewals this year have been good, though another year more should be placed than the average. What has been done in the way of ballasting is good, but considerable more is needed to keep the track up well. Cinders are used and placed where they can be obtained. Shoulders should be filled out. The old sixty-pound steel rail from main line wears well. The surface and adjustment was found good, considering rails and ballast material. Your inspector would suggest that joint fastenings be fully spiked. Two thousand one hundred oak ties were placed this year. The track force was noted meagre for results expected. Fences were found down some, though generally the right of way, where needed, was well fenced. Repairs are being made. Grass and weeds have not been cut and removed properly. Switches were found fairly well attended to. Attention should be constantly given to keeping the parts in firm position. Spikes and bolts should be kept well in. The ditches have not been well attended to and much work is needed. It is false economy to cut down on track force when ditching, low joints, spiking, grading and the like are needed. A road that has been neglected for a long time costs more to place in proper condition than to keep it up constantly. The warning signs at highway grade crossings should receive more attention. Crossing plank should be kept in good life and position. Cattle guards should also be given attention. The passenger stations need not a little attention in renewal and repairs, though in general neat condition. Shims should not be allowed in the track between the leaving and coming of frost. Curves should be braced with iron; wooden braces should not be used. The right of way should be kept free from debris. Stumps and overhanging trees and telegraph poles should not be allowed too near the track. Trees, limbs and poles when struck by lightning or high winds are liable to cause derailment and loss of life if too close to track. Rails should be kept frequently along the track in case of accident. Clearance marks were not noted. Drinking water should be constantly at hand in the stations. The curves should receive attention and humps and flats removed. Relining by instrument should be resorted to when out too far. The few miles in this State have too many openings. An extra effort should be made to close up as many as possible. There are no iron bridges upon this line, and the wooden structures, while safe upon day of inspection, should at once be thoroughly overhauled and new timbers placed where needed, so as to be positively safe. Chances should not be taken. Too many were noted decayed beyond the safe limit. The pile trestles should be thoroughly gone over. Hemlock timber should be removed. Water for protection against fire should certainly be kept on all wooden bridges and trestles. The through wooden Howe trusses should be overhauled, rods tightened and bented where necessary. The cemented gravel on

: to track should be removed. Your inspector was promised ,erintendent that immediate attention would be given the above .nd that the road would be placed in positively safe condition.

Painted Post to Rochester.

This line is single track and laid with sixty and seventy-four-pound steel rail in very good condition with few exceptions. This branch has received eighteen miles of seventy-four-pound steel, and some of it was being laid upon day of inspection. There are nineteen iron bridges, eleven wooden bridges, seven trestles, twenty-eight I-beam openings and twenty-six wooden stringer openings in about 92½ miles. All of the wooden stringer structures are to be renewed with I-beams. Many improvements were noted since the last inspection, among them being over twenty I-beams, replacing old stringers of wood; some 53,000 ties this year; from six to eight miles of cinder ballast, near Cooper's Station, was noted; two spans of through-pin connected bridging, and to place girders at approaches; nearly twenty miles of new fencing; abutments being erected near Savona station for new steel bridge; about 1,500 feet of six-inch drain tile also this year; new station at Conesus and also at Livonia. Seventy-nine men on 92½ miles of main track, besides sidings and spurs. The sleeper life was found very good most of the way. Some poor ties were noted but not many. The quantity furnished, renewed much of the decayed portion. Generally the ties are of good section and form, and laid about seventeen per rail length. This line should receive more ballasting. Not a little has been placed at intervals, but not enough to make a showing. The traffic is sufficient to require a good roadbed. Considerable grading, shouldering out, and ditching has been accomplished, though much more is needed. Your inspector would suggest that an increase in the track force upon all the branches is necessary to keep the important items in safe condition. Too much is evidently expected of the meagre gangs upon the various sections. Proper spiking, spacing ties, bolting, surfacing, aligning and adjusting the track cannot be accomplished unless more men are employed. The track gangs of to-day are expected to do many things besides care for the track and roadbed. Your inspector is constantly met with the excuse, "not enough men," when asked why the track and roadbed is not safely kept up. By "safely kept up," is meant everything done that can be. Your inspector is well aware that wheels will stay on the rails many times when not properly cared for. But chances should not be taken, and too much care cannot be given in keeping all the parts in proper life and position. The bolts were found very well in as a rule, but too many were noted loose and missing, angle bars not fully spiked, and ties not properly spaced. The fences were noted up, as a rule very good, though not a little was noted needing repairs and renewal. Twenty miles of new was noted. Grass and weeds have been cared for by mowing, fairly well for the number of men employed. The switches are of the split-point pattern and generally well attended to, but ample spiking and bolting is very essential at these important points. The highway crossing signs need paint in many instances, and fences along the line where close to highways should certainly be kept up to prevent stock from wandering upon the track. Crossing plank were noted very well placed and in good life as a rule.

The stone-arch culverts have been well overhauled and needed repairs made. More care should certainly be given to keeping up proper stock guards. This is an important item and should not be neglected. The passenger stations were found in general good condition. Drinking water should be kept in every station, and water-closets should be given ample attention; windows and floors should be kept clean. Shims should not be allowed under the rail. Braces should consist of iron; wood is not good and should not be allowed; they have no strength in bearing and should not be relied upon at all. The right of way is generally well cleaned up, but where old stumps and track debris was noted, your inspector was informed cleaning would be done. Spare rails are kept in case of accident at frequent intervals; great care should be taken to keep extra rails within at least one-mile distances. Clearance marks were noted missing. Derailing switches have been placed at all sidings having down grade toward the main track. Your inspector wishes to call attention to the trees standing too close to the track; this is very dangerous and should certainly be avoided by cutting and trimming away. Telegraph poles should not be allowed too close. Lightning or high winds could easily cause derailment and loss of life. Ample water should be kept on wooden structures to prevent fire. The curves receive a fair amount of care, but too many low joints were noted. At Rochester, this company should (to be in keeping with the station building), construct cement or asphaltic floors. The present wooden floors are not conducive to health, comfort or economy. Of the twenty-eight I-beam openings, not a few are on stonework needing attention. The iron bridges were found in good condition. Paint should be placed upon many of them. The masonry is in very good form. The Howe wooden trusses appear fair for age and care received, but all of them should be carefully overhauled and bented where stress and decay demand it. They are liable to sudden failure, and fire may consume them easily and quickly. Iron or steel should be substituted another year. The new bridges of steel and iron erected since the last inspection were all found in very good condition and good in design. Abutments of good stone are being erected for iron girders to replace some of the wooden Howe trusses. This is good work and should be continued until these old wooden structures are eliminated. Seven passenger and seven freight trains make round trips daily. Masonry should be relaid in cement at many of the minor openings. Old wooden buildings not in use and near the track should be removed. The pile trestles have been looked over, but more care should be given to keeping bolts and blocking in good bearing, and chances should not be taken with timber that is decayed. A number of I-beams upheld by wooden bents were noted. These conditions should not exist; stone abutments should be forthcoming. Sills should not be covered with dirt and sod—the constant change from moisture to dryness is very hard upon the timber. Inspection is very apt to be neglected by the officials, besides the chance for sudden failure.

Conesus Lake Branch.

This branch, one and a half miles in extent, laid with sixty-pound steel and single track, is in much the same condition as when last inspected. Some improvements, however, have been made, including filling the lake

landing with stone and making it much better and safer for handling crowds. Considerable quantities of cinder ballast and about 300 new ties this year. There are no openings and the track is maintained quite safe. Excursions in the summer and ice business in the winter. The grade and alignment are easy. The fences are in very fair condition.

Mount Morris to Avon.

This branch is, as previously reported, fifteen miles long, single track, and laid with sixty-pound rail. Some improvements have been made, including 4,500 ties this year, and about seven miles of cinder ballast. The part ballasted is very good, and when the other half is ballasted, this branch will be quite presentable. The sleeper life now, taken as a whole, is very fair, though decayed ties were noted too often. The ties are of good size and laid close together as a rule. An extra effort should be made to ballast this entire line. Shoulders should be given attention. The alignment is fairly easy, and with small expense much betterment could be had. More attention should be given to proper and full spiking, and keeping the bolts full and tight at joints. Joint fastenings are made up of angles and strap-iron plates. Not much cut rail was noted. The rail while old is still in fair condition. The fences were found up in very good form and well maintained except in occasional places. Grass and weeds were noted cut fairly, but not enough attention is paid this important item. Switches were found well cared for as a rule, though a number were noted with spike and bolts not properly adjusted. Great care should be taken in keeping all the parts in firm bearing. The warning signs need paint in a number of instances. Many were noted good, however. Care should be given the item of crossing plank. The culverts under embankments were found in very good form. Cattle guards should be given more attention; also cross fences and wings. The passenger stations were found in neat and orderly condition, as a rule. Shims should not be allowed in, except while frost is in the ground. Wooden braces should be removed and not again used. The spare rails along the line in case of accident were noted quite frequent. Clearance marks were noted missing. Trees too close to the track should be removed. Drinking water at stations was noted. Care should be taken in this item. The curves were found in fair alignment and rail in good adjustment, as a rule. Work was noted going on at trestle near Mount Morris in overhauling and renewing. Bridge No. 2 is a through Howe truss, erected in 1881, about 150 feet span. It is now bented with piles, but is not strong in appearance; and while it might last for some time, it should be replaced with metal bridge. Near Cuylerville station was noted an opening with trussed stringers. This, the superintendent informed your inspector, would shortly be renewed with a deck plate girder bridge on masonry. Next is a cattle pass, now in only fair condition, that is to be filled and box culvert placed. This branch, for the traffic, is very well maintained, though more care should be taken in the various items.

Avon to Attica.

Nothing new of note was observed upon this branch since last inspection except new guard rails on all bridges. A number of I-beams and about 10,000 ties were placed on this thirty-five miles of road this year,

mostly oak. There are twenty-six men including foremen who take care of the track, sidings, yard work, and the like. The sleeper life was found strong, though not a few ties need renewal. Joint ties should be kept strong in any event. Considerable ballast was noted, though much more is needed to place this road in good condition. More work is needed on shoulders, and the alignment of track and surface could and should be bettered. The joints should be full spiked. Little excuse can be offered for neglect in this item. The bolts were found as a close rule well in and tight. Some, however, were noted loose and missing. Everyone should be kept in position. Angle bars with four bolts and some strap iron plates were noted. The rail is sixty-three pounds, still in fair state of preservation. This rail wherever noted shows excellent wearing qualities. The fences were noted well up and in general good condition. Grass and weeds were noted fairly well attended to. The switches, split point, were found in very strong condition. Some instances, however, were noted needing more attention. Some ditching has been accomplished, but more should be. Part of the way this branch is paralleled by three other roads, without enough local business, it is said, for one. The warning signs where up were found in fair paint; where signs do not exist, they should be placed at once. Crossing plank should be given proper attention. The stock guards, where needing attention, should not be neglected. Passenger stations were found in fair condition, and ordinary repairs well in hand. Shims were not noted in to any extent. Spare rails are kept in ample quantities for renewal. Clearance marks do not exist. Trees, where in close proximity to the track, should be removed. The right of way was found in good orderly condition, as a rule. The structures upon this branch were found generally in fair condition. There are seven iron bridges, forty-three openings (single), twenty-six iron stringer openings, seventeen wooden, and five trestles; quite a number of I-beams have been placed (about twenty), while considerable care is given the wooden stringers, not a few were found needing renewal. Much work should be done without delay on the substructures. Much of the masonry needs relaying and pointing. Some trussed stringers were found. Much care and watchfulness should be given these. Your inspector would urgently suggest that the masonry be attended to immediately. Some of the girders and bridges were noticed painted. It is very essential that all of the metal be kept well coated with some good paint. There are many worthless paints on the market, and it is, of course, difficult to obtain the best mixture that will arrest the bad effects of rust; but when metal in structures is neglected, and not coated for four and five years, little good is accomplished. The floors of most of the structures were found strong and well spaced. The rail should be spiked upon every tie, and great care should be given to full spiking and bolting each joint fastening on floors. Your inspector's notes show a number of places where iron girders should be placed upon good masonry.

Bradford Division.

This line extends from Carrolton to the State line of Pennsylvania. Is singled tracked and laid with light rail. Very little improvement was noted since the last inspection. Two thousand and sixty-four ties, mostly

oak, were placed this year, and, as a rule, the sleeper life was found very good, though many were noted too much decayed. Four passenger trains each way daily cares for the traffic—ballast is needed very much. Telegraph poles were noted too close to the track and should be removed. There is great danger from lightning and high winds. The joint fastenings should be full spiked—everyone. Joints should have all the protection possible. Some of the new small-lettered highway signs were noted. In this seven miles there were too many wooden structures. While all appeared safe upon day of inspection, too many timbers were noted decayed beyond a safe limit. Chances should not be taken, and when a piece of timber is decayed toward the centre a new one should be substituted. Wooden trestles are poor at best, and noted for sudden failures. Your inspector would suggest that iron girders on good substantial masonry be substituted for the trestles that cannot be filled upon this line. White pine is used largely and decays quickly on these low structures. Your inspector is well aware that the carpenter gang are constantly watching and overhauling the timber structures and that they do the best they can with what is given them. But they are given many bridges nowadays to care for, and many times timber is allowed to go too long. Water should certainly be kept in barrels at frequent intervals on all the wood structures in case of fire. This line does not average well with the other roads.

Attica to Hornellsville (Main Line, Buffalo Division).

The sleeper renewals upon this sixty miles will average 360 per mile, per year. About ten miles of seventy-four-pound steel was noted. The sleeper life was found very good, and the renewals this year have greatly benefited this section. The track force will average one-half man per mile. The drain tile (six inches diameter) laid since the last inspection will amount to over 3,000 feet. The signs at highway crossings need paint and attention. Spare rail were noted up frequently along the line. All block towers are in use upon this sixty miles. This line should have more ballast in places. There has, however, been placed twenty-six single track miles of ballast this year. The eighty-pound steel rail is well in place, and was found well spiked and bolted. Grass and weeds were noted well cleared up as a rule. Cattle slats were noted missing in places, but the officials promised to give immediate attention. Some of the switch ties were noted too old. Some woven wire fence was noted. Fences were found generally well in hand. There are five facing switches that the officials say will stay in. Shouldering out has been accomplished considerably, and the effect is very good. Trespass signs were noted up in many places, and this warning has been beneficial, and would be on other roads of the State. Where warning signs are hid behind foliage care should be taken to change the location. Clearance marks are not in use. There are six electric gongs at highways upon this part of the division. Spare rail should be kept at every mile post. Where trees are close enough to the tracks to cause danger they should be cut away. Sentiment should not interfere. This part of the division is well cared for, with few exceptions. The structures in the roadbed are in most every instance iron or steel, and upon good masonry. They all appeared in good form, in fair life of paint, amply strong, and good strong floor sys-

tems prevailed upon day of inspection. Near bridge No. 7 was noted a facing switch that is to be taken out soon. Great care should be given to keeping ends of bridges clean and free from cinders and dirt. In fact, all places where water is likely to stand and rust the metal should be kept free and clean. The Portage bridge, 235 feet high, is apparently well watched and cared for. A new yellow pine deck has been placed since the last inspection. It should be painted without fail. Since 1892 the beton at crest of falls has worn away some sixty feet. There is now only one corner of the river bed still protected by this mixture. One minute is taken by the trains in passage. The employe who watches this bridge appears like a very faithful man, and his ability to examine every bearing point from top to bottom greatly assists in keeping it free from the chances of sudden failure. The break in the grade at one end should receive attention, looking towards freedom from sudden jar. The few wooden stringer openings will soon be renewed in iron or steel. At present the stringers were found quite strong. The passenger stations were found in good state of repair, and clean. Drinking water should at all times be kept in the sitting-rooms.

Attica to Buffalo.

Considerable improvement was noted upon these thirty-one miles. Eighty-pound steel rail was found here except the sixty-pound in the Buffalo yard. Two and three-fourth miles of slag ballast has been placed this season near Buffalo. One block tower has been abandoned. Two thousand five hundred feet of new siding was noted near water tank tower since last inspection. The sleeper life was found very good, close and of good section. Warning signs need paint. There are no stock guards at all. Four and three-quarter miles of double track have been ballasted with gravel, one car in a place, this summer. All of the centre platforms at stations (which were wood) have been renewed with gravel surface. The switches are all tailing upon this part. Twenty-four miles of single track was ballasted in 1894 with gravel. Twelve facing switches have been eliminated on the double track on the Buffalo division this year. Between Buffalo Creek Junction and Attica there are only three wooden stringer openings, two of which are on stone abutments, small spans, and in strong condition, but should be iron. There are fourteen rolled I-beam openings, five girder bridges and four rail stringer openings. These spans run from four feet to fifty-six feet. All were found in good condition and well cared for.

Waterboro Junction to Buffalo Creek Junction.

[Old Buffalo and Southwestern.]

Buffalo Division.

From Waterboro to Jamestown is used and operated by the New York, Pennsylvania and Ohio Railroad as part of a double-track road, so that Waterboro is properly the end of the Buffalo and Southwestern branch. This line is single track and about fifty-six miles long, laid with the sixty-pound steel rail. The improvements include eight or ten high switch targets and 6,000 cubic yards

of cinders placed this year. Very little, except the ordinary repairs, has been accomplished for some time. The sleeper life is not strong. Many decayed ties were noted close together. This branch should be better tied up. There is considerable business and the trains make considerable speed. The track force is too small to keep this track up where it belongs for the speed, and for safety to the traveling public. This track has been neglected. There is only an average of one-half a man to a mile. Ballast is needed very much, and while some has been placed recently, much more is needed. Low joints, shims, and many other indications point to the great necessity of material, particularly upon the southern end. Shoulders need widening out in fills. The alignment, adjustment, spiking and bolting are below the average and should not be allowed. Too many spike were noted missing at joints, and bolts were noted loose and missing too frequent for positive safety. Your inspector would suggest that this branch be given more attention or the trains be lessened in number and in speed. Much of the rail is still in very fair shape, but it is not heavy enough. Heavier rail should be laid next year without fail. The fences are fairly well attended to, considering the small track force and the various things they do. The grass and weeds are not well cared for and the right of way is not clean or orderly as a rule. The switches are of the split-point pattern, and were noted not well attended to in several important items. Angle bars were noted not full spiked and bolts on many switches were noted loose and missing. The ditches have received some attention, but not as much as will be found upon other branches with less traffic. This branch surely needs a large amount of draining, and has received little or none for a long time. The warning signs at highway crossings were found in fair condition, though in some places needing paint and repairs. Crossing plank need more attention at a number of places. Some renewals were noted. The culverts under embankments were attended to and placed in fair condition last year. Stock guards were noted up in many instances, though attention is needed in not a few places were highways are unprotected. The passenger stations were found fairly well appointed in accommodations and repairs, excepting Pine Valley, which needs paint, repairs and cleaner sitting-room. Markhams is also very poor and small. Collins needs paint and a sign. Lawtons needs paint and repairs. Eden Center is a very poor station, and should be renewed with a larger building of modern design. It is now unfit for a lady to enter. The sitting-room is very small and far from clean. The two seats or benches are uncomfortable and dirty, only one small dirty window. There is no water-closet, and taken all together it is unfit for passengers to enter. The tickets amount to between three and four hundred dollars per month. The freight accommodations were noted also very poor. North Collins should also be torn down, and is, if anything, worse than Eden Center. Drinking water should be kept in *every* station, and the windows, floors and general interior should be clean and orderly. Shims should not be allowed under the rail, except when frost is in the ground. Too many were noted for safety. They rot easy; crack, break, loosen spike, and allow joints to have unequal bearing, when loose. It is a shiftless manner of trying to keep up joints. *Ballast is what is wanted.* On the hill braces were noted on curves and well spiked. Though more should be placed. Spare rail were noted at close

intervals. Rail should be kept on hand, and not allowed to be covered or placed in unhandy positions. Clearance marks were not found upon this branch. Trees should be kept free from a chance of falling on track. The curves were noted in need of more trackmen to keep them in proper curvature and position. The structures upon this branch, and there are too many for the mileage, are cared for by three men and a foreman. A large number of them are wood, and were noted in anything but positive safe condition. The carpenters do the best they can, no doubt, to keep the timbers renewed, but where the force is so small great chances are taken, which should not be allowed in any event. Your inspector would urgently suggest that every one of the wooden structures be thoroughly overhauled, and enough men employed to place them beyond the chance of failure. Chances should not be taken upon the degree of decay that will stand the load. The wooden Howe through trussed bridges, while safe, perhaps, beyond a chance of immediate failure, have not the appearance of being positively safe. Added to the poor condition of many of them is the fact that water is not kept on board for fire protection, or upon some of the trestles. Your inspector cannot understand why water should not be always at hand. Guard rails were noted much needed upon structures. Many places were noticed where a derailed truck might do great harm, and probably cause great loss of life. Your inspector would suggest greater care in spiking and bolting the rail upon structures. The floors were found as a rule in very good condition, though several were found in need of immediate renewal. If material and sufficient help are not given the officer in immediate charge little can be accomplished. If this branch is allowed to be operated, it should be bettered greatly. Ties were noted needing attention in spacing.

Lockport Branch—Buffalo Division.

This branch is fourteen miles long and extends from Tonawanda to Lockport, is single track, and sixty-pound steel rail. Two foremen and ten men comprise the track force. There has been no improvements of note upon this line. Three thousand cubic yards of cinder ballast have been placed this year. Sleepers are very fair for traffic, which is light. Some renewals were noted needed, particularly at joints. The ballasting is not first-class and, still, for the traffic, is fair. The alignment is good. There is one tangent nearly thirteen miles long. The track adjustment is not what it should be, though not very poor. Too many spikes were noted missing, and bolts, while, in ample numbers, were noted too frequently loose. Angle bars should be full spiked. The rail wears well and is heavy enough for the traffic for some time yet. Fences were noted not in much need of repairs, though too much care cannot be taken in keeping the track fenced from highways. Grass and weeds have been attended to fairly. Ties were noted not well spaced. The switches were found well cared for and firm. Split points are in use. The ditches were, as a rule, found in good open order and free from obstacles. Much good can be done to the roadbed in a number of places by deepening and extending the grades. The warning signs at highway grade crossings were noted, as a rule, strong in life, well painted and conspicuous; though a few need attention. Crossing plank

have been well renewed and were found in general good condition. Cattle guards were noted missing along the whole line. Your inspector would suggest that stock guards be erected and maintained, suitable to turn stock. No good excuse can be offered for not keeping the track protected. Good cross fences exist, and why not the guards? Passenger stations were found neat and with very fair conveniences. Shims were noted here as upon other branches and, unless they are kept out, accidents may happen. The right of way was found neat and orderly. Clearance marks were noted missing. Derailing switches were noted where needed. All trees should certainly be removed from the right of way, particularly where near enough to cause a chance for danger by derailment. The openings are mostly State ditches and could, it would seem, in a number of instances, be piped and ballast filled over and solid roadbed easily made. Many of the stringers and wooden abutments need renewal. Oak is used in many of the structures. Floor ties were also noted needed in many instances. Near Martinville was noted a short trestle, narrowed on each end since last inspection, which needs new spacing timber and floor ties. The old ties from the floor of the Portage bridge have been placed upon the small openings here.

East Buffalo to Niagara Falls—Buffalo Division.

The tracks at the East Buffalo station have been changed so as to simplify the entrance and facilitate the handling of freight as well as passengers. This branch is double tracked for some six miles—East Buffalo to Black Rock. Sixty-pound steel prevails upon this branch. Some four miles of slag has been placed and the track raised some. The ties renewed this year will average, it is said, about 360 per mile. Seven miles of slag twelve inches deep was laid on single track since last inspection. Cattle guards are not in use upon this branch. The rail joints were found not full spiked. There cannot be *any* excuse for this. Grass was found short and the right of way clean and orderly as a rule. Fencing was found down in too many instances. The highway crossing signs were noted needing paint and repairs in many instances. Crossing plank should be cared for, as many places were found needing renewals. Passenger stations were found generally well cared for and neat. The Tonawanda station building has been lately overhauled inside and out, raised and remodeled; also painted inside and out. Shims were noted under joints. Your inspector would earnestly suggest that this practice be abandoned. It is bad enough in the winter, but when they are allowed to remain all summer it shows either gross neglect or that the track force is too small to safely care for the track. The right of way was found well cleared of track débris and as a rule neat and orderly. Great care should be taken to keep all switches locked that are not constantly manned. Spare rail is kept handy at frequent intervals along the line. Attention should be paid this important item. Clearance marks do not prevail at sidings. Derailing switches should be placed at every point needed. The ties in too many places were noted improperly spaced. This is very important and should be attended to at once, not only on this branch, but on all others. When trees or telegraph poles are too close to the track they should be removed without delay. Angles should be filled with wood wherever possible, not only upon this branch, but upon all the lines.

Drinking water should be always at hand in the sitting-rooms, and water-closet accommodations should be ample. Water should be kept upon all wooden structures in case of fire. The curves should be given more attention as to alignment and adjustment. The structure over Little Buffalo Creek should be filled, and it was promised immediately. No. 1 is a four-span through-riveted truss bridge over the New York Central and Hudson River Railroad and has new guard rail, all in good form. The through span over the West Shore Railroad is to have new guard rail in a few days. All of the stations should have the names plainly painted upon them. The short through Howe truss bridge near Kensington station, while in apparent good life now, should be renewed in metal. One opening was noted with new through plate girders since last inspection where were wooden bents on piles. The through wooden Howe truss bridge over Eleven Mile Creek is to be renewed with metal and approaches also; now in only ordinary condition. No. 4 is through-pin connected spans over the Erie canal, all in good condition now. The minor openings should receive more attention, At Suspension Bridge not a little improvement was noted; also at Tonawanda.

New York, Pennsylvania and Ohio Division.

This line extends from Salamanca to State line. The improvements upon it since the last inspection include: Large quantities of gravel ballast of excellent quality; Steamberg block tower placed in 1893; new split-point switches were noted in very good form; sharpest curves spiraled; three highway electric gongs; ten miles of eighty-pound steel rail laid in 1893; large tie renewals. The sleeper life generally was found very good—good section and closely spaced. The ballast (gravel) is very good and looks very much like the Yost gravel upon the New York Central and Hudson River Railroad. The entire line is being ballasted, graded and ditched. It certainly is a well-groomed roadbed now. Great care has been given to grading and opening ditches. The shoulders have been filled out in many places. The alignment was noted very good, also the track adjustment. The spiking and bolting of fastenings and rail were noted well cared for, with few exceptions. The rail was noted in good condition, as a rule, except perhaps some of the eighty-pound near the State line, which were wearing poorly, and new ones will replace them before winter. The material appears to be too soft. The fences were found very well cared for and not a little new was noted in places. Grass and weeds were found very well cleared away and the right of way was noticed neat and orderly. The warning signs at highway-grade crossings were found nicely painted, strong, conspicuous and with few exceptions upright in position. The crossing plank were noted in very good condition, as a rule. Some were noted needing repairs and renewal. The arch culverts under embankments were carefully looked over and repaired last year. The stock guards were noted up and well maintained; very few were noted in need of repair. The passenger stations were found in good repair. Drinking water should always be kept in the waiting-rooms. The water-closets should be well attended to and kept in close proximity to stations. The track is free from shims and great care is evidently taken to keep the rails, ties and

roadbed in good order. Braces were noted on curves. The right of way was found clean and orderly with little exception. Rails were found up at frequent intervals and the mile posts are of stone; halfs and quarters are also marked with stone slabs set in the ground. Clearance marks were not noted in use. Derailing switches should be placed at every siding having downward grade towards main track and where cars are allowed to stand. Telegraph poles were found too close to the track for safety. Parts of the road were noted not full spiked on angle bars. Angles at switches should be filled with wood blocks. Water should be kept for fire protection at all frame stations. Guard rail were noted upon structures, and great care should be given to keeping it well and securely spiked. The structures in the roadbed, were found largely of iron and well cared for and supported by good masonry. The through Howe wooden trusses were found quite aged, and while perhaps able to stand the stress for some time, should not be allowed to remain; iron or steel should be substituted. The wooden structure over raceway in the Jamestown yard should be renewed with iron. Some of the bays are to be filled. This should not be delayed. Your inspector wishes to call attention to the Jamestown station. It is not in proper condition for so large and thriving a town. A new modern designed structure should be erected here. The company perhaps hesitates because of the chances of having to elevate their tracks and the consequent necessity of building the station to fit the elevated position. This station was noted in a neglected state, and not a few items of improvement were noted needed. The superintendent promised your inspector that steps would be taken in the near future looking towards renovating, painting and modern convenience. The structures, as a whole, were found strong and well painted, with few exceptions. The floors were in very good life of timber.

Salamanca to Dunkirk—Western Division.

The inspection of this branch began at Dunkirk. Among the betterments noted since the last inspection were: A number of plate-girder bridges; 10,000 ties, oak, in 1895, in forty-seven miles; 4,500 in 1894, and 15,000 in 1893; about three miles of cinder ballast, 150 carloads of slag rip-rapping, and three miles of double track ballast; six facing switches abandoned. The ties were noted generally in very strong life. Some were, however, noted too much decayed, and it was said that they will be renewed before winter. There is great need of ballast upon the north half. The rail is light and ballast and heavier rail are needed. This division should receive more attention. Shoulders need widening, more attention to alignment, surface and the like. Too many spike were noted missing at angle bars, and ties need attention in proper spacing. The rail is very fair for age and traffic—not many very short rail were noted. The fences were found up in very fair condition as a rule, though not a little of the right of way needs closer attention. Too much grass and weeds were noted. The track force is too small. The switches were found well cared for, though more care should be given to spiking and bolting. Some ditching has been accomplished, though much more is needed. The warning signs were found up fairly well. Several, however, were found needing attention. Crossing plank should

be kept firm, and in strong life. The cattle guards were found needing much more attention than has been given them. Many were found needing entire renewal. No attempt has evidently been made to keep them up as they should be. The passenger stations have been given attention in ordinary repairs and some improvements were noted. Shims should not be allowed under rail at any time when frost is not in the ground. Rails were noted up in good form for renewal in case of accident. No clearance marks were noted. Derailing switches were noted where necessary. Trees and telegraph poles should not be allowed too close to the track. If struck by lightning or high winds great harm might result. Angles at switches were not given the attention they should have. Blocking should be placed. Water for fire protection should be kept at all wooden bridges, also at stations. The structures upon this division receive considerable attention, and an extra attempt should be made to remove all wooden stringers. The officials informed your inspector that the near future would see them all renewed with iron. The wooden bridges were noted safe upon day of inspection, but more attention should be given them.

NEW YORK AND NEW ENGLAND RAILROAD.

This line is single-tracked, extending from Fishkill-on-the-Hudson to the State line of Connecticut near Brewsters, and is 30.5 miles long, properly speaking, in this State. Trackage is paid the Newburgh, Dutchess and Connecticut Railroad for about twelve miles. Some four miles of eighty-pound steel rail was noted distributed upon the day of inspection. The whole line is expected to be renewed with this heavy rail before winter. The section is four and three-quarter inches base, four and three-quarter inches height, and two and one-quarter inches ball. The angle bars are quite heavy in section, and nicely proportioned. Nineteen thousand yellow-pine cross-ties are to be placed this season. The specification for this work calls for 7″ x 9″ x 8′ and the officials report good quality as a rule, and excess in section. Considerable ballast has been placed since last inspection. The material is somewhat fine, but answers fairly well. About twenty-five miles have been ballasted, and the balance will be this season. About 1,500 feet of new side-track was noted at Fishkill. No other extensions have been made. Your inspector was informed there will be placed derailing switches at every siding this season. The chestnut sleepers show much wear; for considerable stretches they were noted with the rail sunken in them. A few places were noted where the ties were very weak. Tie plates are to be used with the new heavy rail. The passenger stations were all found very well cared for, though outside painting was noted needed in not a few instances. General repairs, however, about the platforms, roofs and the like, were found well up. It is suggested that all the bushes and small tree growths be removed, when the grass is cut in July, from right of way. The fences, generally, were found fairly well attended to, and the property everywhere is well inclosed. The switches were found in good working order, and stands and targets well painted. The highway grade crossing signs should receive attention. The surface and adjustment of track was found, as a rule, in fair condition, considering age of rail. The curves were noted in good form and fairly braced. The spiking and bolts were

found ample. The larger structures along this line have been reinforced to meet the increased weight of motive power, and all were found in ample form and condition. The minor openings have been overhauled since the last inspection in 1893, and are now in good life of timber. The trestles were found well cared for, and watchmen are employed at dangerous points. The Howe trusses are given extra care, and remain in strong condition. The masonry should be pointed in many places. Near mile-post No. 22 was noted a rock cut having the appearance of needing attention. The loose rock in places should be removed. More attention is suggested in the item of crossing plank. The ditches were found in well opened condition. Some 350 piles have been placed in the long trestle near the Fishkill end, and extra stringers have also been placed, and the structure is at present strong and well braced.

NEW YORK, CHICAGO AND ST. LOUIS RAILROAD.

This road is sixty-eight miles long in this State, from Buffalo along the southerly side of Lake Erie. Except a few miles near Buffalo, the whole line is now laid with sixty-five pound rail. Eight miles of ballast, one car in a place, has been placed ready for raising the track. This will cause a raise of about five inches. More should be placed. Eighteen thousand white oak ties have been placed this year, and more will be put in by winter. The sleeper life was found good, though many places were noted, particularly at joints, where ties are decayed beyond the limit. It is suggested that new ties be placed at every joint needing them, without delay. New spurs of track were noted at Concord, 350 feet long; at Gales, 500 feet; Silver Creek, 800 feet; Brocton, 600 feet. These have been placed, with those at Sheridan, 900 feet, and Pratt Crossing, 600 feet, since last inspection. Not enough care is given to properly spiking and bolting at rail joints. This is a very important item, and should not be neglected. There are about eight miles of double track, and the rest is single. The banks need widening in places. The crossing plank were found generally in good life, but a few places were noted needing new plank immediately. The fences are, as a rule, up in very good form, though places were noted needing more attention than has been given for some time. The switch-guard rails were noted not well braced in too many instances. This is an important item, both opposite the frog and point. There is not much brush, weeds and grass on this line, but where it exists care is taken to cut and remove. The highway warning signs were found in very fair condition and in conspicuous positions. The few passenger stations in this State are in a good state of maintenance and regular repairs are made. They are comfortable and clean. The adjustment of track on tangent and curves was found very fair. (For detailed statement of structures in road-bed see report of 1893.) Commendable improvement has been made in placing cast-iron pipe at small openings and filling in. Some sixteen were noted treated in this manner between the State line and Westfield and twenty-two between Buffalo and Westfield. Rails, in case of accident, were noted up at frequent intervals. The work of closing up the small openings, while given considerable attention in the past two years, should receive more in the near future. There are too many. Arch culverts, stone boxes and cast-iron piping could be used to great advantage. The trestles,

of which there are too many for the mileage, were found in good repair as a rule, though instances were noted needing renewals in stringers, floor ties and sills. A very bad practice prevails on this road of covering sills. This important member, if kept from the air and frequent changes from wet to dry, would not necessitate criticism. But this is not the case. The dirt is wet for a few days and then dry, and this constant variation rots the timber very rapidly. Again, inspection is hindered; being out of sight, the officials and employes neglect to uncover with shovel so as to positively know the true condition. It is suggested that every sill be uncovered and placed high and dry upon blocking, or, better still, stone piers. Sudden failure of these wooden structures many times can be traced to this shiftless method. The masonry at the most important structures was noted pointed and in general good condition. Water was found kept in barrels at frequent intervals on wooden structures in case of fire. An attempt should be made to narrow by filling many of the openings. On the flat land near Buffalo considerable filling could be accomplished. There are too many openings. It is suggested that the officers of this road make surveys and ascertain positively how many can be closed. New floor systems on a number of structures are needed without delay. Bridge ties should not be allowed to remain after decay has reached near the centre at any point. Names should be placed upon the stations, and station agents should wear some distinguishing badge. Trestles, where next Western New York and Pennsylvania Railroad, should be given attention. There is some question as to the advisability of two rival roads, where both are supposed to help maintain, using virtually one trestle. The New York, Chicago and St. Louis Railroad have in a number of instances cut away their half. This would seem to be proper, for then, in case of failure, the blame could be properly placed. The bridging is being painted with what appears to be very good material.

NEW YORK, SUSQUEHANNA AND WESTERN RAILROAD.

This line, extending from Middletown to New Jersey State line, remains much in the same condition as when last inspected in 1893. A number of improvements were observed that should be mentioned, including 8,000 chestnut and oak ties placed this year on fourteen miles. The iron bridge has been reinforced. Derailing switches on all grade sidings; 700 feet of new spur track. The fences are maintained in good form. Some ballasting is needed, and this was promised shortly. The grass and weeds have been cut, though on the track was noted too much of this troublesome growth. The old abandoned milk stations, much decayed and standing close to the track, should be removed for safety. This was promised by the superintendent. The spiking and bolting of rails and at joints were found very good. The rail is strongly upheld, and the sleepers were also found generally in good life. The highway warning signs spoken of in last report have not been attended to, though the superintendent promised this item would be given attention immediately. The station agents are to have badges. Crossing plank need attention in a number of places. This line has received no ballast since 1893, and an effort should be made to place an ample quantity. The track cannot be kept up in good, safe condition without this very necessary material The switches are all split points and well maintained. The rail

is still in good condition on the main track, though much of the siding is very old and insecure. Shoulders need filling out in a number of places. The ditching was noted, as a rule, in good form. Guard rail is needed on all of the larger structures. The single openings with I-beams should be braced laterally. Ten highway grade crossings were noted. Tie guards should surely be placed upon all single openings. New floor ties were also noted as needed. Wall plates in a number of instances should be renewed. The superintendent promised that these various items would be attended to without delay. One deck-plate girder was noted needing paint. Cattle slats should be placed instead of open pit guards, and the pits filled where possible. Where necessary the stations should be painted and overhauled without delay. Sills should not be kept covered. One was noted, but the ground was quite wet, and your inspector was informed during a greater part of the year the sill is covered with mud and water. These conditions are not the worst, but proper construction would be to place the sills high and dry on a stone foundation. The point in question should have stone abutments and iron girder.

NEW YORK AND SEA BEACH RAILROAD.

Your inspector takes pleasure in reporting that considerable improvement was noted upon day of inspection on this road. The recommendations of your honorable body have nearly all been carried out and the road is now in very good condition. The trestle over the Coney Island Creek arm has been filled, and the Coney Island Creek structure has been virtually made new. Considerable money has been expended, and the roadbed, ties, rail, and the like placed in very good condition. More is to be accomplished before the summer opening. Some thirty tons of new sixty-pound steel rail was noted, and 3,600 chestnut ties have been placed. The switches have all been renewed and were found in good condition. The targets are to be painted. The platforms are all to be renewed, and work upon day of inspection was being carried forward. The warning signs at grade crossings are to be newly painted and renewals made where needed. Quite a force of workmen were employed along the line, and every indication seemed to point toward a general overhauling.

ORANGE COUNTY RAILROAD.

This road remains in the same strong condition as when last inspected. It is a comparatively new line. All of the openings above eight span have iron beams. There are nineteen openings. Two miles of ballast have been placed upon the Hudson end. New wooden stringers and piles have been placed at the sixty-foot structure. The piling is white oak and the stringers yellow pine. Eight hundred ties were placed last year and about 1,000 this year. There are eight highway grade crossings. The switches are all points. The road generally is in good form. The iron bridging was noted in good condition. The sixty-pound rail wears well.

OTIS ELEVATING RAILWAY.

This road continues to be operated safely, and with considerable satisfaction to the public. Many improvements were noted about the power house. The roadbed was found in good condition, and the ties, guard timbers and woodwork generally, noted strong and in good form. The stations appear in neat and orderly condition.

ROCHESTER AND LAKE ONTARIO RAILROAD.

This line, as previously reported, extends from North avenue, Rochester, to Lake Ontario, a distance of about six and one-half miles; is single track and narrow gauge. Among the improvements noted since the last inspection, were two new platforms, engines overhauled, and about twenty tons of fifty-six pound steel rail laid. The fences, while having been repaired to some extent, still need attention. The only light rail left on the track is along the street in Rochester, and should be replaced with at least fifty-six pound as soon as possible. There are no openings of moment in the roadbed. Some bolts were noted missing, though not many. The spiking generally is full, and the sleeper life out of the city proper was found good. Through the street in the city tie renewals should be made without delay. The comparatively new split-point switches give satisfaction. There is a manifest desire for propulsion by electricity or compressed air. Generally speaking this road is in good condition and carefully managed.

SEA VIEW RAILROAD.

Elevated.

This structure, by recent measurement, is 4,500 feet long. The usual repairs are being made to place it in condition for the summer. It is carefully watched, and parts renewed where needed. If it is to be continued in operation, now that the Kings County Elevated is to be connected with the Brooklyn and Brighton Beach Railroad, and also with it, the structure should be renewed with metal. As previously stated, it is only a makeshift, while in its present form and material. Not a little of the inflammable material along the line has been removed, but there still remains a number of old sheds and shanties liable at any moment to cause a disastrous fire. No delay should be allowed in removing all and every chance for fire. The east end has been cut off some 150 feet, and the Brighton Beach Racing Association have built a breakwater bulkhead some 370 feet long across the road's alignment. A new incline will be constructed this season, some 600 feet in length, and parallel with the Brooklyn and Coney Island Electric trolley line. Renewals were noted in stringers, blocking, piles, and bracing along the line. The placing of longitudinal bracing, suggested in previous report, has not as yet been accomplished. The wooden trusses over what was the original bicycle tracks, West Brighton, were noted "sagged." These should be overhauled and a proper "camber" placed. About 225 new piles were noted in the west end. The West Fifth street stringers are to be "trussed," as suggested. The change should not be delayed. It is suggested that in

another year, this structure, where now wood, be renewed with iron or steel. The metal portion over the Culver yard and the Boulevard, was found in good general condition.

STONY CLOVE AND CATSKILL MOUNTAIN RAILROAD.

Narrow Gauge.

As previously reported, this road is single track, forty-pound steel, and extends from Hunter, in the Catskill Mountains, to Phœnicia, where connection is made with the Ulster and Delaware Railroad. It is fourteen and one-half miles in length. The Ulster and Delaware Company still operate the road. Considerable improvement since the last inspection was noted, and the property, as a whole, averages well. Some 15,000 chestnut and oak ties have been placed this year upon the Stony Clove and Catskill Mountain and the Kaaterskill roads. Quite a few bolts were noted missing at rail joints, but your inspector was assured new ones would be placed immediately. The spiking was found, as a rule, very good. The sleeper life was found generally good, though some very much decayed ties were noted. These, it was said, would be replaced with new ones without delay. The ties are very close together, and of good section. The road, generally, is well ditched, and great care is taken to grade the ditches properly. This road would be greatly benefited by good ballast material. More attention is needed in widening on shoulders. This item should not be neglected. Targets need paint. The switches were found in good condition, and all locked when not in use. The fences appear well cared for. Grass and weeds were being removed upon day of inspection. It is suggested that all trees, stumps and underbrush be removed from right of way. This road was built in 1881, and a number of the original truss bridges are still in existence. They are Howe wooden trusses, and, while well painted and carefully watched, some of them show signs of weakness. Near Chichesters is one fifty-six-feet span that should be "bented" before the summer travel begins. It is suggested that they all be "bored" and minutely examined. An effort should be made to replace them with plate girders in another year. The minor structures were found in good condition generally—good floor ties, and fairly spaced. The guard timbers should be heavier, and approaches widened. Guard rails should be placed upon all. The two wooden Queen trusses, near Lanesville, should be deck-plate girders, without delay. The stringers in the small openings were noted strong, of good section, and in good position. Near Hunter was noted a ridge-stream structure, which is to be overhauled, and the stream flumed to carry gravel and large stones away. This stream has caused some trouble in the past, and the present work will, no doubt, give the required result. The masonry upon this road was found in good condition, though constant watchfulness is suggested, particularly at the mountain-stream crossings. In the village of Phœnicia, one pier was noted washed some. Grout and concrete is needed. It is near the shore of the Esopus creek, and should be attended to at once. The stations were found in excellent condition, and much care is evidently taken to please the traveling public.

structed of stable material. The brush, weeds, grass and stumps will be attended to very shortly. Considerable ditching has been accomplished. The crossing plank were found well placed and of sound material, all new. Cattle guards will soon be placed. This item should not be delayed. Tile piping was noted under embankments. This is not good construction and will be regretted probably, after the first severe winter. Frost makes sad havoc with this material, cracking and breaking it badly at ends. Cast iron piping would have been much more economical for permanency and solidity. The company have at present two locomotives of the Rhode Island Company's make. Tney are of good design. The Mogul weighs some fifty-five tons, ready for the road. The other is somewhat lighter. There are two passenger coaches, five flat cars and three box cars. The passenger stations are small, but appear ample for the business. They are neat, nicely painted and of good design. A new telegraph line is in course of construction. Some openings in the roadbed have been closed recently. There are sixteen openings between Bridgwater and Leonardsville, five miles. Mostly one span, which have wooden stringers resting upon masonry. They are composed of small stone laid in cement. There are thirteen trestles, from two to six bays in extent, between South Edmeston and New Berlin. Three single openings were also noted between the above stations. Ten single openings exist between Leonardsville and South Edmeston and nine trestles. The general manager informed your inspector that he would reduce this great number of openings greatly in the next year. An effort should be made to do this. There are too many structures for the mileage. A great many can be covered up or closed. The construction from Leonardsville consists of pile bents, cedar and oak, with yellow pine stringers and oak floor ties. The piles were noted large in section and well imbedded. Guard rail is to be placed upon the trestles over two bays, and water for protection against fire will be kept at each in oil barrels. Guard timbers should also be placed. They will tend to hold the floor ties in place, and greatly assist in keeping derailed trucks upon the deck. Dixy's trestle is about 100 feet long on a curve, and the only structure of moment. A number of three-bay trestles could be narrowed up or closed. Some hemlock was noted upon the old end in structures. This short-lived material should not be allowed in the roadbed, where better timber can possibly be obtained.

WELLSVILLE, COUDERSPORT AND PINE CREEK RAILROAD.

This road has been sold to the Buffalo and Susquehanna Railroad, a corporation recently organized and now constructing a standard gauge railroad from some point in Pennsylvania to Buffalo. The Wellsville, Coudersport and Pine Creek Railroad is utilized as part of the line, and at present is being reconstructed. All openings of 100 feet and under will be spanned by plate girders, and over 100 feet by trusses. Eighty-pound steel rail is being laid or will be in a month or so. The line will be ballasted. The superintendent of the road informed your inspector that the new structures will be placed as soon as possible; in the mean time they are on blocking. A large modern brick station is being erected at Wellsville. The construction is being pushed in Pennsylvania by a very large force. The line in this State will pass through Belmont and follow the old State line road.

MINUTES OF THE BOARD.

REPORTED IN PURSUANCE OF SECTION 166 OF THE RAILROAD LAW.

[For the treatment of complaints against corporations coming under the supervision of the Board, the following method of procedure has been adopted: Upon receipt of a complaint a copy of the letter of the complainant is at once forwarded to the officers of the corporation against which complaint is made, with the request to answer within ten days. Reply to the complaint is then transmitted to the complainant, and if the matter is not satisfactorily adjusted by correspondence, a public hearing is had before the Board and such order made as the evidence then adduced seems to warrant.]

ALBANY, OCTOBER 8, 1894.

The Board met pursuant to adjournment. All present.
The minutes of the last meeting were read and approved.

Complaints.

A. Bird against the Delaware and Hudson Canal Company, alleging lack of closet facilities at the Sidney station; answer of the company, that directions had been given that an outhouse be built. Reply of the complainant, asking that closets in the station be erected instead of an outhouse, and stating that the village would extend the Main street sewer to the line of the railroad at the crossing; reply of the company, stating that if the village will extend the sewer to a point immediately opposite the east side of the station building, the company will furnish closets. Copy of the reply of the company ordered sent complainant.

G. E. Harmon against the New York Central and Hudson River Railroad Company, as to condition of fences separating his farm from the railroad property just west of Churchville; answer of the company, stating that the fences were being rebuilt; reply of the complainant, stating that they had not been rebuilt as promised. Reply of complainant ordered sent the company.

James L. Young, of Copake, N. Y., against the Philadelphia, Reading and New England Railroad Company, alleging poor condition of fences separating his farm from the railroad property; also, as to shipment of three barrels of apples, alleging that two barrels were delayed until destroyed. Ordered complaint be sent company.

Hearings.

In the matter of the application of the Amsterdam, Johnstown and Gloversville Railroad Company for a certificate under section 59 of the Railroad Law, final argument in which matter was to be had to-day, by consent of both sides, hearing adjourned until November 12, 2 P. M. Affidavits (as marked) filed by applicants.

Applications.

Application of the Utica Belt Line Street Railway Company for leave to abandon portions of its route.

WHEREAS, Application has been made for the abandonment of a certain part of the routes of the Utica Belt Line Street Railway Company, and

WHEREAS, Such portions have not been in operation for a period of three years or more, and a large portion of the track and equipment of the road has already been removed and used on other portions of the line, and in view of the action of the Common Council of the city of Utica ordering the removal of such tracks and the abandonment of such road,

Resolved, That the application for approval be granted.

Application of the Albany Railway for approval of the Board of the abandonment of the Pearl Street Line of the Albany Railway, between Clinton avenue and Van Woert street. Ordered hearing set down for October 29, at 2 P. M., and notice be advertised for one week.

Decisions.

Commissioner Rickard submitted decisions in the matter of a collision on the Buffalo Creek Railroad August 13; also in the matter of the derailment of train No. 8, at Port Kent, August 30, on the Delaware and Hudson Canal Company's Railroad; also in the matter of accident at Esperance station on the Delaware and Hudson Canal Company's Railroad at Esperance July 19. Adopted and ordered issued.

Bills.

Bills were approved as follows:

Western Union Telegraph Co	$9 17
Hudson River Telephone Co	10 84
A. M. Michael, rubber stamp for Secretary	2 50
National Express Co	12 73
Commissioner Rickard, expense bill	16 26
Frank K. Baxter, expense bill	21 60
	$73 10

The Board adjourned until October 29, at 2 P. M.

ALBANY, OCTOBER 29, 1894.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the applications of the Kings County Elevated Railway Company for approval of an increase of capital stock from $3,250,000 to $4,750,000, James R. Soley (Tracy, Boardman & Platt), appeared and asked such approval. The increase is to be exchanged for a like amount of the capital stock of the Fulton Elevated Railroad Company. The Board ordered that proof must be made as to the disposition of stock increase, heretofore approved, of the Fulton Elevated Railroad Company.

In the matter of the application of the Albany Railway for the approval of the Board of the abandonment of that portion of its route on North Pearl street, between Clinton avenue and Van Woert street, in the city of Albany, the Board heard E. S. Fassett, representing the company, for the application, and Messrs. Williams, Reynolds, Baker and others in opposition. The hearing was adjourned until November 12, 2 P. M., and Mr. Fassett agreed to furnish a schedule of the number of cars run over this portion of the road each day and the number of trips made by each car during the past seven months.

Complaints.

C. P. Root against the New York, Ontario and Western Railway Company, asking that the said company be compelled to stop its milk train at the Union Creamery, Sidney Center, to receive milk. Answer of the company received and sent complainant; reply of complainant to answer of company sent com-

pany; reply of company received, ordered sent complainant and he be informed that a hearing in the matter will be given if desired.

H. M. Thompson against the Long Island Traction Company, the Brooklyn Heights Railroad Company and the Brooklyn City Railroad Company, alleging incorrect statements in the reports of the two latter companies and asking for an investigation of the books of the three companies. Ordered complaint be forwarded to the companies.

L. D. Browning and others, of Scio, N. Y., against the New York, Lake Erie and Western Railroad Company, alleging poor condition of fences; also answer of the company, stating that the fences would be put in proper condition as soon as possible. The answer of the company was sent complainants.

C. W. Bly against the New York Central and Hudson River Railroad Company, alleging dangerous condition of the planking at crossings of the railroad in the vicinity of Palmyra. Ordered sent the company.

John Pugh against the Buffalo, Rochester and Pittsburg Railway Company, alleging poor condition of fences; communication from the company, stating that the fences had been repaired. Ordered sent complainant.

Peter V. Ketcham against the Long Island Railroad Company, alleging dangerous crossing in the village of Farmingdale and asking that the company be compelled to erect gates at such crossing. Report of the Inspector that, in his opinion, the electric bell now at the crossing is sufficient. Ordered copy of the Inspector's report be sent the complainant and he be notified he may have a hearing if he desires.

The Board adjourned until November 12, at 2 P. M.

ALBANY, NOVEMBER 12, 1894.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the adjourned application of the Kings County Elevated Railroad Company for approval of an increase of capital stock from $3,250,000 to $4,750,000, F. G. Kimball (Tracy, Boardman & Platt), appeared and presented further papers. The increase was ordered approved.

In the matter of the adjourned application of the Amsterdam, Johnstown and Gloversville Railroad Company, for a certificate under section 59 of the Railroad Law, the case was summed up by Hamilton Harris and A. D. L. Baker against the application and A. C. Tennant and Matthew Hale for the application. Decision reserved.

In the matter of the adjourned application of the Albany Railway for leave to abandon that portion of its route on North Pearl street, from Clinton avenue to Van Woert street, E. S. Fassett appeared for the company and Joseph Halm and Messrs. Reynolds, Headlam and others appeared in opposition. Alex. Robertson presented petitions from property owners asking that the abandonment be allowed. Hearing adjourned until November 26, at 2 P. M.

Complaints.

State Commission in Lunacy against the New York, Lake Erie and Western Railroad Company, asking that an electric gong warning signal be placed at a crossing of said road in the grounds of the Binghamton State Hospital. Ordered copy of complaint be sent the company.

The Local Authorities of Jamaica, L. I., against the Brooklyn, Queens County and Suburban Electric Railroad, complaint alleging that the tracks, etc., of that company are out of repair. Ordered sent the company. Answer of the company, stating that the cause of complaint would be removed. Answer ordered sent complainants.

H. M. Thompson against the Brooklyn Heights Railroad Company and the Brooklyn City Railroad Company, answers of the above named companies received. Ordered that the Secretary make an examination of the books of the companies and the answers be sent complainant.

Applications.

Fred C. Cocheu, representing the Nassau Electric Railroad Company, appeared and made application for approval of the operation by electricity of a railroad by that company on New York avenue, from Fulton street to Atlantic avenue. Ordered hearing set down for Tuesday, November 20th, 11 A. M., City Hall, Brooklyn, and notice be advertised.

The Board adjourned until Tuesday, November 20th, 11 A. M., Common Council Chamber, City Hall, Brooklyn.

BROOKLYN, NOVEMBER 20, 1894.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the application of the Nassau Electric Railroad Company for approval of the Board of the use of the trolley system as a motive power on its road in New York avenue, from Fulton street to Atlantic avenue, the Board heard John J. Allen, counsel for the company. No one appeared in opposition. Ordered that the application be approved.

Decisions.

In the matter of the application of the Amsterdam, Johnstown and Gloversville Railroad Company, for a certificate under section 59 of the Railroad Law, the Board decided that an order be issued denying the application.

The Board adjourned until November 26th, 2 P. M.

ALBANY, NOVEMBER 26, 1894.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Complaints.

C. W. Bly against the New York Central and Hudson River Railroad Company. The answer of the company was received, stating that the planking complained of at the crossing in question (Palmyra), had been cut away so that a person's or a horse's foot cannot get caught between the head of rail and the planking. Ordered copy of answer sent complainant.

State Commission in Lunacy against the New York, Lake Erie and Western Railroad Company, alleging dangerous crossing in the grounds of the Binghamton State Hospital, and asking that an electrical bell be erected at the crossing. Answer of the company received, referring to the building of an overhead walkway at the crossing, and copy transmitted to complainant. Reply of the complainant also received, insisting that an electric bell be erected at the crossing. Ordered that the Inspector inspect the crossing in question and report to the Board.

Applications.

Application of the Buffalo Railway Company for abandonment of a portion of its route. Ordered hearing set down for 2 P. M., December 10th, at Albany, and notice of hearing be advertised in five Buffalo papers, as shown by papers on file.

Hearings.

In the matter of the adjourned application of the Albany Railway for leave to abandon that portion of its route on North Pearl street from Clinton avenue to Van Woert street, E. S. Fassett appeared for the company; Alex. Robertson also appeared in favor of the application. Messrs. Lansing, Reynolds, Baker, Headlam and others appeared in opposition. Decision reserved.

The Board adjourned until 2 P. M., December 10.

ALBANY, DECEMBER 10, 1894.

The Board met pursuant to adjournment. All present.
The minutes of the last meeting were read and approved.

Complaints.

C. W. Bly, of Palmyra, against the New York Central and Hudson River Railroad Company, relative to planking at crossings; reply of the complainant to answer of the company. Ordered letter written complainant explaining answer of the company.

State Commission in Lunacy against the New York, Lake Erie and Western Railroad Company, as to dangerous crossing in Binghamton State Hospital grounds; report of the Inspector as to his examination of the crossing. Ordered that a copy of such report be sent to the company, and the recommendation be made that an electric bell be placed at the crossing, unless the company desires a further hearing in the matter.

Applications.

Application of the Buffalo, Attica and Arcade Railroad Company for leave to change the gauge of its railroad from narrow to standard gauge. Ordered approved.

Hearings.

In the matter of the application of the Buffalo Railway Company for permission to abandon certain portions of its routes. Porter Norton, counsel, and H. M. Watson, president, appeared in favor of such application. No one appeared in opposition. Ordered application approved, and declaration of abandonment approved.

The Secretary submitted a report of examination of the books and accounts of the Brooklyn City and Brooklyn Heights Railroad Companies. After the reading and consideration of such report, the following resolution was unanimously adopted by the Board:

Resolved, That the report of the Secretary of this Board, in relation to the Brooklyn City and Brooklyn Heights Railroad Companies and the Long Island Traction Company, be and the same is hereby accepted, and its conclusions and findings concerning the accounts of these companies approved.

On motion of Commissioner Rickard, the Board adopted the following resolution:

Resolved, That the Secretary be and is hereby directed to invite the accountants and superintendents of the street surface railroads of the State to a conference to be held in Albany some time in January for the purpose of discussing the adoption of a uniform system of accounting, and such changes in the form of the blank presented by the Board for the returns of annual reports as may be deemed necessary to meet the requirements of the change in methods of operation.

Recess until Tuesday the 11th inst.

ALBANY, DECEMBER 11, 1894.

The Board met and went into executive session to consider the annual report.

Recess until the 12th inst.

ALBANY, DECEMBER 12, 1894.

The Board met in executive session and continued consideration of the annual report.

The Board adjourned until Tuesday, December 18th, 11 A. M., in New York city.

NEW YORK, DECEMBER 18, 1894.

The Board met in executive session and continued consideration of the annual report. All present.

The Board adjourned until December 26, at 2 P. M.

ALBANY, DECEMBER 26, 1894.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Rickard.

The minutes of the last meeting were read and approved.

Complaints.

A. H. Williams & Co., of Utica, against the Delaware, Lackawanna and Western Railroad Company, relative to increase of freight rates at Utica. Ordered copy of complaint be sent the company.

C. W. Bly against the New York Central and Hudson River Railroad Company relative to planking at crossings in the vicinity of Palmyra. Communication from complainant. Ordered copy sent the company.

The Board in executive session continued consideration of and completed the annual report.

The Board adjourned until December 31, at 2 P. M.

ALBANY, DECEMBER 31, 1894.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Rickard.

The minutes of the last meeting were read and approved.

Complaints.

A. H. Williams & Co. against railroads centering in Utica carrying freight from New York; letter received from complainants, making the complaint against the Delaware, Lackawanna and Western Railroad, New York Central and Hudson River Railroad, New York, Ontario and Western Railway, and West Shore Railroad, alleging increase in freight rates and discrimination against their business, that of druggists. Ordered statement of complaint be transmitted to the companies.

James L. Young against the Philadelphia, Reading and New England Railroad Company. Letter received from the company, stating that the fence complained of is being repaired, and that in his complaint relative to the loss of a couple of barrels of apples that company was not at fault.

Applications.

Applications of the Staten Island Midland Railroad Company (two), for leave to use the electrical trolley system in the operation of certain routes. Ordered hearing on same set down for January 29th, 11 A. M., Chamber of Commerce, New York city, and notices of hearing be advertised.

The Board adjourned until Monday, January 7th, 11 A. M., at the Hoffman House, New York city.

NEW YORK, JANUARY 7, 1895.

The Board met pursuant to adjournment, at the Hoffman House. All present.

Applications.

In the matter of the application of the Third Avenue Railroad Company for approval of an increase of capital stock from $7,000,000 to $9,000,000, the Board heard W. H. Page for the company. Ordered application approved.

The Board took a recess to meet at Brooklyn at 2 P. M.

BROOKLYN, JANUARY 7, 1895.

The Board met at 2 P. M. All present.

The Board held a public meeting on the question of lessening the number of accidents on the Brooklyn trolley railroads. William Hempstreet, appearing as a citizen, read and filed with the Board a statement on this question. Benjamin Norton, president Atlantic Avenue Railroad; Daniel F. Lewis, president Brooklyn Heights Railroad, and W. A. H. Bogardus, secretary, and Judge Morris, counsel, John N. Partridge, president Brooklyn City and Newtown Railroad, and H. W. Slocum, president Coney Island and Brooklyn Railroad, were heard on the question.

The Board adjourned the hearing until 2:30 P. M., Tuesday, the 15th inst., at the City Hall, Brooklyn.

The Board adjourned to meet at New York, January 15th.

NEW YORK, JANUARY 15, 1895.

The Board met at the Hoffman House at 11 A. M. All present.

Complaints.

C. W. Bly, of Palmyra, against the New York Central and Hudson River Railroad Company, relative to the condition of crossings of that railroad in the vicinity of Palmyra. Letter received from the company stating that the crossings had been fixed in the standard manner.

James F. Graham against the Coney Island and Brooklyn Railroad Company as to the management of the railroad. (Later in the day, in Brooklyn, complaint in detail received and ordered sent the company, and hearing set down for January 29, at 2 P. M., Common Council Chamber, Brooklyn.)

T. E. Cross, of Poughkeepsie, against the West Shore Railroad, alleging a larger rate of freight on lumber from New York to Catskill than from New York to Albany. Ordered complaint sent company with instruction to reply.

A. H. Williams & Co., of Utica, against the New York Central and Hudson River, West Shore, New York, Ontario and Western, and Delaware, Lackawanna and Western Railroads, alleging discrimination in freight rates from New York to Utica. Answers of the West Shore and Delaware, Lackawanna and Western Companies and acknowledgment of receipt of complaint by the New York, Ontario and Western Railroads received; also letters from complainants. Ordered hearing be set down before the Board at Albany, January 22, at 2 P. M.

William H. Leach against the Delaware and Hudson Canal Company, alleging neglect of the company to have their tracks in the vicinity of Douglass properly patroled. Ordered copy of the complaint be sent the company.

Applications.

Applications of the Batavia and Northern and the International and Oak Orchard Harbor Railroad Companies for a certificate under section 59 of the Railroad Law. Ordered hearings on said applications be set down for February 14th, at the Iroquois Hotel, Buffalo, at 11 A. M., and notices be advertised in a paper at Batavia and Albion for three weeks.

Application of the Port Richmond and Prohibition Park Electric Railroad Company for permission to change its name to the Staten Island Traction Company. Ordered letter be written stating that application should be made by petition, with the resolution of the Board of Directors authorizing the change.

Application of the Walden and Orange Lake Railroad Company for permission to operate its railroad by the electrical trolley system. Ordered hearing set down for the 29th of January, at 11 A. M., Chamber of Commerce, New York city, and notice be advertised.

Communications.

Letter of James L. Young, relative to his complaint against the Philadelphia, Reading and New England Railroad, saying that his fences have been put in first-class condition. Ordered letter be written him as to his other complaint, relative to a miscarriage of a shipment of two barrels of apples.

Communication from William Abbatt, relative to heating of cars in New York city. Ordered that he be written that there is no law compelling the heating of cars on street railroads.

The Board took a recess until 2:30 P. M., at the City Hall, Brooklyn.

2:30 P. M.

The Board met at the City Hall and gave a public hearing in the matter of devising means to prevent trolley railroad accidents in Brooklyn. The Board heard William T. Shannon, H. W. Slocum and others. (Mr. Slocum presented the rules of his company only.) The Board also heard John Giblin and Patrick J. Collins, representing the employes, as to the cause of trolley accidents.

The following cases were ordered closed because of failure on the part of the complainant to continue prosecution:

Thomas W. Stevens against the Lebannon Springs Railroad, alleging poor condition of roadbed and rolling stock.

L. J. Rossman against the Kinderhook and Hudson River Railroad, objection to closing of station.

James P. Malloy against the Union Railway of New York, alleging failure to notify passengers as to the destination of cars.

B. J. Cummings against the Western New York and Pennsylvania Railroad, alleging overcharge on freight.

Peter V. Ketcham against the Long Island Railroad, alleging dangerous crossing.

C. P. Root against the New York, Ontario and Western Railway, relative to stopping trains at creamery.

The following cases were ordered closed, the cause of complaint having been removed:

G. E. Harmon against the New York Central and Hudson River Railroad Company, relative to fences.

L. D. Browning against the New York, Lake Erie and Western Railroad, relative to fences.

Trustees, etc., of the village of Jamaica against the Brooklyn, Queens County and Suburban Railroad, relative to condition of tracks.

The Board adjourned until Tuesday, January 22, 1895, at 2 P. M.

ALBANY, JANUARY 22, 1895.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Complaints.

A H. Williams & Co. against railroads carrying freight between New York and Utica, alleging discrimination in freight rates. On application of railroads interested, alleging lack of time to prepare, the hearing was postponed to February 5th, at 2 P. M.

William H. Leach, Esq., against the Delaware and Hudson Canal Company, alleging that the company failed to have its track in the vicinity of Douglass properly patroled. Answer of the company received, denying the allegation. Letter written Mr. Leach that, after investigation, the Board deems there is no ground for complaint.

T. E. Cross against the West Shore Railroad Company, alleging discrimination in freight rates on lumber against Catskill as compared with Albany. Answer of the company received and ordered sent complainant.

James F. Graham against the Coney Island and Brooklyn Railroad. Answer of the company received and ordered sent complainant.

C. W. Bly against the New York Central and Hudson River Railroad Company, relative to the condition of crossings in the vicinity of Palmyra; letter from complainant, stating that the crossings had been fixed, and thanking the Board.

John Van Schaick, of Cobleskill, against the Delaware and Hudson Canal Company, alleging unnecesary blowing of whistles. Ordered sent the company.

Applications.

Application of the Port Richmond and Prohibition Park Electric Railroad Company for approval of change of name to the Staten Island Traction Company. Ordered approved.

The Board adjourned until January 29, at 11 A. M., Chamber of Commerce, New York city.

NEW YORK, JANUARY 29, 1895.

The Board met pursuant to adjournment. All present.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the application of the Walden and Orange Lake Railroad Company for permission to use the overhead electrical trolley system motive power on its railroad, the Board heard W. D. Dickey for the application. No one appeared in opposition. Ordered approved.

In the matter of the application of the Staten Island Midland Railroad Company for permission to use the overhead electrical trolley system of motive power, the Board heard Joseph N. Tuttle, counsel for the application, also C. G. Kolff, and Nathan Niles; on application No. 1 no one appeared in opposition. Ordered approved on filing with the Board the proof of consents of property owners and local authorities. The hearing on application No. 2 was adjourned to February 19, 11 A. M., at the Chamber of Commerce, New York city.

In the matter of the application of the Port Richmond and Prohibition Park Electric Railroad Company for an increase of capital stock from $100,000 to $200,000, A. S. Bacon appeared for the company. Papers taken and decision reserved.

Complaints.

T. E. Cross against the West Shore Railroad Company, alleging discrimination in rates on lumber in favor of Albany as against Catskill; that the rate to Albany from New York is less than to Catskill. Reply of complainant to answer of company. Ordered hearing set down for February 5, 2 P. M., at Albany, and a copy of his letter ordered sent the West Shore.

A. H. Williams & Co., of Utica, against the New York Central Railroad, the Delaware, Lackawanna and Western, the New York, Ontario and Western, and the West Shore Railroad Companies, asking for information as to special rates given merchants at Utica. Ordered a copy of the letter be sent the companies, and they be directed to be prepared to furnish the Board at the hearing on February 5, with the information desired.

Andrew J. Metz, of Clarence Centre, against the New York Central and Hudson River Railroad and the Lehigh Valley Railroad, alleging neglect to blow whistle or sound bell at railroad crossing near Clarence Centre. Ordered copy of complaint be sent the companies.

The Board took a recess until 2 P. M. to the City Hall, Brooklyn.

BROOKLYN, JANUARY 29, 2 P. M.

The Board heard F. A. McClaskey for complainant in the matter of James F. Graham against the Coney Island and Brooklyn Railroad Company, alleging that the company did not pave the street on portions of its line, etc. H. W. Slocum appeared for the company. Mr. McClaskey asked for an adjournment. Commissioner Beardsley stated that the Board would be at the City Hall, Brooklyn, on February 19, at 2 P. M., in the matter of trolley accidents in Brooklyn, and would hear the complainant then if he appeared.

The Board adjourned until February 5, at 2 P. M.

ALBANY, FEBRUARY 5, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

A. H. Williams & Co. against the New York Central and Hudson River Railroad Company, the New York, Ontario and Western Railway Company, the West Shore Railroad, and the Delaware, Lackawanna and Western Railroad, alleging discrimination in freight rates at Utica against wholesale druggists on shipments from New York, A. H. Williams appearing. Ira L. Place, counsel, and W. L. Kingman, representing the Freight Department, appeared for the New York Central and Hudson River Railroad Company; J. B. Kerr, counsel, and J. C. Anderson, General Freight Agent, appeared for the New York, Ontario and Western Company; Percy R. Todd, General Traffic Manager, and F. LaBau, General Freight Agent, appeared for the West Shore Railroad; and W. E. Fleming, of the Freight Department, represented the Delaware, Lackawanna and Western Railroad Company. Decision was reserved.

T. E. Cross against the West Shore Railroad, Mr. Todd and Mr. La Bau appeared for the company. The complainant did not appear in person, but had filed a statement of his case with the Board. The complaint is that the rate on lumber to Catskill from New York is greater than the rate to Albany from New York. The matter is held open for further proof.

Applications.

Application of the Ballston Electric Railroad Company for leave to use the electrical trolley system in the operation of its railroad. Ordered hearing set down for Tuesday, February 26, 2 P. M., at Albany, and notice of hearing ordered advertised in two Ballston papers.

A conference was had of street railroad accountants as to changes in the form of annual report required from street railroad companies. The Secretary submitted a proposed form of report. After discussion the conference was adjourned to New York city, February 19, 11 A. M.

The following resolutions of the Senate, with response thereto, were ordered spread on the minutes.

WHEREAS, The law requires that all increased capital stock of railroads shall be first authorized by the Board of Railroad Commissioners, therefore,

Resolved, That the Board of Railroad Commissioners report to the Senate within five days what railroad corporations have so increased their capital stock since the Board was created, the amount of capital at the time the increase was allowed, and the commissioners voting for such increase.

STATE OF NEW YORK,
BOARD OF RAILROAD COMMISSIONERS,
ALBANY, February 4, 1895.

To the Honorable the Senate of the State of New York:

GENTLEMEN.—In compliance with the preamble and resolution of your Honorable body, to wit:

WHEREAS, the law requires that all increased capital stock of railroads shall be first authorized by the Board of Railroad Commissioners, therefore,

Resolved, That the Board of Railroad Commissioners report to the Senate within five days what railroad corporations have so increased their capital stock since the Board was created, the amount of capital at the time the increase was allowed, and the commissioners voting for such increase,

I am directed by this Board to transmit the enclosed statement, showing the names of the several railroad corporations whose applications for increase of capital stock have been granted by the Board, the amount of capital at the time of the application, the amount of increase, and the names of the commissioners voting for the same.

Yours respectfully,

C. R. DEFREEST,
Secretary.

STATEMENT OF APPLICATIONS FOR INCREASE OF CAPITAL STOCK OF RAILROAD COMPANIES APPROVED BY THE BOARD OF RAILROAD COMMISSIONERS UNDER SECTION NINE OF THE GENERAL RAILROAD ACT OF 1850 AND ACTS AMENDATORY THEREOF.

1883.

Rochester City and Brighton Railroad Company, from $105,000 to $500,000. Commissioners Kernan, Rogers and O'Donnell voting for same.

1884.

The Harlem Bridge, Morrisania and Fordham Railroad Company, from $300,000 to $350,000. Commissioners Kernan and Rogers voting for same. Commissioner O'Donnell not voting.

1885.

The Herkimer, Newport and Poland Narrow Gauge Railroad Company, from $120,000 to $250,000. Commissioners Kernan, Rogers and O'Donnell voting for same.

Steinway and Hunter's Point Railroad Company, from $60,000 to $250,000. Commissioners Kernan and Rogers voting for same. Commissioner O'Donnell absent.

The Sixth Avenue Railroad Company of New York, from $750,000 to $1,500,000. Commissioners Kernan and Rogers voting for same. Commissioner O'Donnell absent.

The Penn Yan and New York Railroad Company, from $60,000 to $125,000. Commissioners Kernan and Rogers voting for same. Commissioner O'Donnell present but not voting.

Broadway Railroad Company of Brooklyn, from $350,000 to $525,000. Commissioners Kernan and Rogers voting for same. Commissioner O'Donnell absent.

1886.

The Otis Elevating Railway Company, from $60,000 to $100,000. Commissioners Kernan and Rogers voting for same. Commissioner O'Donnell present but not voting.

The Troy and Lansingburgh Railroad Company, from $250,000 to $300,000. Commissioners Kernan and Rogers voting for same. Commissioner O'Donnell absent.

The Albany Railway, from $200,000 to $275,000. Commissioners Kernan and Rogers voting for same. Commissioner O'Donnell against.

1887.

The Rome, Watertown and Ogdensburg Terminal Railroad Company, from $50,000 to $300,000. Commissioners Kernan and Rogers voting for same. Commissioner O'Donnell against.

The Atlantic Avenue Railroad Company of Brooklyn, from $700,000 to $1,000,000. Commissioners Kernan and Rogers voting for same. Commissioner O'Donnell present but not voting.

The Brooklyn City Railroad Company, from $2,000,000 to $3,200,000. Commissioners Kernan, Rogers and Baker voting for same.

The Rochester Electric Railway Company, from $75,000 to $200,000. Commissioners Kernan, Rogers and Baker voting for same.

1888.

The Queen City Street Railway Company of Buffalo, from $100,000 to $500,000. Commissioners Rogers, Baker and Rickard voting for same.

The West Side Street Railway Company of Buffalo, from $50,000 to $100,000. Commissioners Rogers, Baker and Rickard voting for same.

The Central City Railway Company of Syracuse, from $50,000 to $80,000. Commissioners Rogers, Baker and Rickard voting for same.

The Brooklyn Crosstown Railroad Company, from $200,000 to $500,000. Commissioners Rogers, Baker and Rickard voting for same.

The Mahopac Falls Railroad Company, from $50,000 to $82,000. Commissioners Rogers, Baker and Rickard voting for same.

The New Jersey and New York Extension Railroad Company, from $30,000 to $60,000. Commissioners Rogers, Baker and Rickard voting for same.

The Central City Railway Company of Syracuse, from $80,000 to $100,000. Commissioners Rogers, Baker and Rickard voting for same.

The Court Street and East End Railroad Company of Binghamton, from $20,000 to $35,000. Commissioners Rogers, Baker and Rickard voting for same.

1889.

The Union Elevated Railroad Company of Brooklyn, from $1,000,000 to $9,040,200. Commissioners Rogers, Baker and Rickard voting for same.

The Long Island Railroad Company, from $10,000,000 to $12,000,000. Commissioners Rogers, Baker and Rickard voting for same.

The South Beach Railway Company, from $50,000 to $100,000. Commissioners Rogers, Baker and Rickard voting for same.

The Buffalo East Side Street Railway Company, from $100,000 to $250,000. Commissioners Rogers, Baker and Rickard voting for same.

The Rochester and Honeoye Valley Railroad Company, from $320,000 to $500,000. Commissioners Rogers, Baker and Rickard voting for same.

The Crosstown Railroad Company of Rochester, from $50,000 to $150,000. Commissioners Rogers, Baker and Rickard voting for same.

The South Park Railroad Company of Rochester, from $30,000 to $100,000. Commissioners Rogers, Baker and Rickard voting for same.

The Albany Railway, from $275,000 to $750,000. Commissioners Rogers, Baker and Rickard voting for same.

The Brooklyn City Railroad Company, from $3,200,000 to $6,000,000. Commissioners Rogers, Baker and Rickard voting for same.

1890.

The Binghamton Central Railroad Company, from $35,000 to $80,000. Commissioners Rogers, Baker and Rickard voting for same.

The Croton Valley Railroad Company, from $100,000 to $350,000. Commissioners Rogers, Baker and Rickard voting for same.

The Grand View Beach Railroad Company, from $40,000 to $100,000. Commissioners Rogers, Baker and Rickard voting for same.

The Allegany and Kinzua Railroad Company, from $80,000 to $590,000. Commissioners Rogers, Baker and Rickard voting for same.

The Troy and Lansingburgh Railroad Company, from $300,000 to $700,000. Commissioners Rogers, Baker and Rickard voting for same.

The Saratoga Electric Railway Company, from $50,000 to $150,000. Commissioners Rogers, Baker and Rickard voting for same.

The Geneva and Van Ettenville Railroad Company, from $600,000 to $4,000,000. Commissioners Rogers, Baker and Rickard voting for same.

The Mahopac Falls Railroad Company, from $82,000 to $100,000. Commissioners Rogers, Baker and Rickard voting for same.

The Elmira and Horseheads Railroad Company, from $50,000 to $380,000 Commissioners Rogers, Baker and Rickard voting for same.

The People's Railroad Company of Syracuse, from $300,000 to $1,000,000. Commissioners Rogers, Baker and Rickard voting for same.

1891.

The Amsterdam Street Railroad Company, from $15,000 to $250,000. Commissioners Rogers, Baker and Rickard voting for same.

The Houston, West Street and Pavonia Ferry Railroad Company, from $250,000 to $1,050,000. Commissioners Rogers, Baker and Rickard voting for same.

The Troy and Albia Horse Railroad Company, from $50,000 to $400,000. Commissioners Rogers, Baker and Rickard voting for same.

The Jamestown Street Railroad Company, from $100,000 to $250,000. Commissioners Rogers, Baker and Rickard voting for same.

The Glens Falls, Sandy Hill and Fort Edward Railroad Company, from $70,000 to $120,000. Commissioners Rogers, Baker and Rickard voting for same.

The Sixth Avenue Railroad Company of New York, from $1,500,000 to $2,000,000. Commissioners Rogers, Baker and Rickard voting for same.

The Atlantic Avenue Railroad Company of Brooklyn, from $1,000,000 to $1,500,000. Commissioners Baker and Rickard voting for same. Commissioner Rogers absent.

The Atlantic Avenue Railroad Company of Brooklyn, from $1,500,000 to $2,000,000. Commissioners Rogers, Baker and Rickard voting for same.

The Auburn City Railway Company, from $50,000 to $150,000. Commissioners Baker and Rickard voting for same. Commissioner Rogers absent.

The Third Avenue Railroad Company, from $2,000,000 to $5,000,000. Commissioners Rogers, Baker and Rickard voting for same.

The Manhattan Railway Company, from $26,000,000 to $30,000,000. Commissioners Rogers, Baker and Rickard voting for same.

The Syracuse, Eastwood Heights and DeWitt Railroad Company, from $40,000 to $150,000. Commissioners Rogers, Baker and Rickard voting for same.

The Brooklyn, Bath and West End Railroad Company, from $500,000 to $600,000. Commissioners Rogers, Baker and Rickard voting for same.

The Schenectady Street Railway Company, from $25,000 to $300,000. Commissioners Rogers, Baker and Rickard voting for same.

The Niagara Falls and Suspension Bridge Railroad Company, from $50,000 to $100,000. Commissioners Rogers, Baker and Rickard voting for same.

The Oswego Street Railway Company, from $20,000 to $125,000. Commissioners Rogers, Baker and Rickard voting for same.

The Brooklyn Heights Railroad Company, from $150,000 to $200,000. Commissioners Rogers, Baker and Rickard voting for same.

The New Jersey and New York Extension Railroad Company, from $60,000 to $75,000. Commissioners Rogers, Baker and Rickard voting for same.

The Northern Adirondack Railroad Company, from $450,000 to $840,000. Commissioners Rogers, Baker and Rickard voting for same.

1892.

The Otis Elevating Railroad Company, from $100,000 to $170,000. Commissioners Rogers, Baker and Rickard voting for same.

The Herkimer, Newport and Poland Railway Company, from $250,000 to $500,000. Commissioners Rogers, Baker and Rickard voting for same.

The Crosstown Street Railroad Company of Buffalo, from $500,000 to $1,500,000. Commissioners Baker, Rickard and Beardsley voting for same.

The Seneca Electric Railway Company, from $40,000 to $50,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Corning, Cowanesque and Antrim Railway Company, from $2,000,000 to $5,000,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Fiftieth Street, Astoria Ferry and Central Park Railroad Company, from $500,000 to $1,500,000. Commissioners Beardsley, Chapin and Rickard voting for same.

The Niagara Falls and Suspension Bridge Railroad Company, from $100,000 to $250,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Ithaca Street Railway Company, from $25,000 to $175,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Port Richmond and Prohibition Park Electric Railroad Company, from $50,000 to $100,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Binghamton and Port Dickinson Railroad Company, from $60,000 to $350,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Albany Railway, from $750,000 to $1,250,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Cayadutta Electric Railroad Company, from $120,000 to $350,000. Commissioners Beardsley and Rickard voting for same. Commissioner Chapin absent.

The Brooklyn City Railroad Company, from $6,000,000 to $12,000,000. Commissioners Beardsley and Rickard voting for same. Commissioner Chapin absent.

The Binghamton and State Line Railroad Company, from $130,000 to $500,000. Commissioners Beardsley and Rickard voting for same. Commissioner Chapin absent.

The Tonawanda Street Railroad Company, from $75,000 to $250,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Troy City Railroad Company, from $400,000 to $2,000,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Kingston City Railroad Company, from $50,000 to $150,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Citizens Street Railway Company of Fishkill Landing and Matteawan,

from $20,000 to $75,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Coney Island and Brooklyn Railroad Company, from $500,000 to $1,000,000. Commissioners Beardsley, Rickard and Chapin voting for same.

1893.

The Buffalo and Williamsville Electric Railway Company, from $50,000 to $75,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Crosstown Railroad Company of Buffalo, from $1,500,000 to $3,000,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Van Brunt Street and Erie Basin Railroad Company of Brooklyn, from $150,000 to $200,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Third Avenue Railroad Company, from $5,000,000 to $7,000,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Niagara Falls and Suspension Bridge Railroad Company, from $250,000 to $750,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Court Street and East End Railroad Company of Binghamton, from $30,000 to $225,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The West Side Street Railway Company of Binghamton, from $25,000 to $175,000. Commissioners Beardsley, Rickard and Chapin voting for same.

New York Central and Hudson River Railroad Company, from $89,428,300 to $100,000,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Westchester Electric Railroad Company, from $30,000 to $500,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Saranac and Lake Placid Railroad Company, from $100,000 to $250,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Brooklyn, Bath and West End Railroad Company, from $600,000 to $1,000,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Albany Railway, from $1,250,000 to $1,500,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Staten Island Railway Company, from $900,000 to $1,050,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Stillwater and Mechanicville Railroad Company, from $40,000 to $60,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Houston, West Street and Pavonia Ferry Railroad Company, from $1,050,000 to $7,050,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Glens Falls, Sandy Hill and Fort Edward Railroad Company from $120,000 to $150,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Ithaca Street Railway Company from $175,000 to $250,000. Commissioners Beardsley, Rickard and Chapin voting for same.

1894.

The West Side Railroad Company of Elmira, from $100,000 to $300,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Middletown-Goshen Traction Company, from $100,000 to $200,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Fulton Elevated Railway Company of Brooklyn, from $300,000 to $1,500,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Port Jervis and Suburban Street Railroad Company, from $25,000 to $100,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Fort Plain and Richfield Springs Railway Company, from $300,000 to $600,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Kings County Elevated Railroad Company, from $3,250,000 to $4,750,000. Commissioners Beardsley, Rickard and Chapin voting for same.

The Utica Belt Line Street Railway Company, from $150,000 to $300,000. Commissioners Beardsley, Rickard and Chapin voting for same.

1895.

The Third Avenue Railroad Company, from $7,000,000 to $9,000,000. Commissioners Beardsley, Rickard and Chapin voting for same.

Summary.

Total increase on electric and horse roads	$34,930,000
Total increase on steam roads	22,321,700
Total increase on elevated roads	7,000,000
Total increase on cable roads	14,740,200
Total	$78,991,900

Bills.

The following bills were approved:

Hudson River Telephone Company	$11 59
Capital District Telegraph Company	10
National Express Company	6 87
Western Union Telegraph Company	8 72
A. M. Michael	75
Total	$28 03

The Board took a recess until February 6, at 11 A. M.

ALBANY, FEBRUARY 6, 1895.

The Board met and went into executive session.
The Board adjourned until February 12, at 2 P. M.

ALBANY, FEBRUARY 12, 1895.

The Board met pursuant to adjournment. Present, Commissioners Rickard and Chapin. Commissioner Beardsley absent.

Complaints.

A. H. Williams & Co., of Utica, against the railroads centering there, alleging discrimination against the wholesale druggists on freight from New York city. Letter received from complainant, enclosing list of articles handled by wholesale druggists, which are also handled by wholesale grocers. Ordered filed.

Andrew J. Metz, of Clarence Centre, against the New York Central and Hudson River Railroad Company and Lehigh Valley Railroad Company, alleging neglect of the enginemen on such roads to blow the whistle or sound the bell approaching crossings. Answer of the New York Central and Hudson River Railroad Company received, stating, among other things, that the rules of the company in regard to these matters are very explicit, and that orders will be given at once that they be strictly enforced. Ordered copy of answer sent complainant.

Citizens of Cobleskill against the Delaware and Hudson Canal Company, alleging too frequent sounding the whistle on locomotives in the vicinity of Cobleskill. Answer of the company, stating that instructions have been issued to engineers to use the whistle at Cobleskill and vicinity as little as possible, copy having been sent complainant. Letter from John Van Schaick, one of the complainants, stating that the answer of the company is satisfactory, and that the matter complained of has been noticeably remedied. Ordered copy of this letter sent the company.

Applications.

Application of the Syracuse East Side Railway Company for the approval of the Board of an increase of its capital stock from $200,000 to $250,000. William Nottingham, counsel, appeared for the company, and stated that the proceedings for such increase had been taken by the stockholders, and a certificate filed in the Secretary of State's office of such increase, November 22, 1894, that through inadvertence, the provisions of the Stock Corporation Law, requiring the approval of this Board, were not complied with, and that such certificate

of increase was filed without such approval; that the company now applies for the approval of this Board *nunc pro tunc*. It appearing from the papers filed that such increase is a proper one, it is ordered that the approval of the Board be granted of an increase of the capital stock of the Syracuse East Side Railway Company from $200,000 to $250,000, *nunc pro tunc*, November 21, 1894, and that such approval be endorsed on the certificates of the stockholders' meeting, as required by the Stock Corporation Law.

The Board adjourned until 11 A. M., Thursday, February 14, at the Iroquois Hotel, Buffalo.

BUFFALO, FEBRUARY 14, 1895.

The Board met pursuant to adjournment. Present, Commissioners Rickard and Chapin. Commissioner Beardsley absent.

Hearings.

In the matter of the applications of the International and Oak Orchard Railroad Company and the Batavia and Northern Railroad Company for certificates under section 59 of the Railroad Law, the Board gave a hearing; no one appeared in opposition. The following persons appeared in favor of the application: General Robert Avery and Richard Schermerhorn, directly representing the company; also the following:

From Buffalo—S. Douglass Cornell, capitalist; E. L. Koons, real estate; Charles H. Robinson, merchant; George T. Wardwell, lawyer; M. F. Warren, banker; Ernest Wende, M.D., health officer; George H. Sickles, Jr., lawyer; Frank E. Sickles, capitalist and real estate; Judge George S. Wardell. From Batavia—Nelson Bogue, nurseryman; C. W. Hough, manufacturer, chairman Board of Trade; A. W. Cavey, merchant; James A. Le Seur, district attorney; James C. Barnes, merchant; O. C. Steele, city treasurer; Arthur E. Clark, attorney; David D. Lent. From Albion—Judge Isaac S. Signor, George H. Sickels, Dwight S. Beckwith, Charles E. Hart, George W. Barrett, William Hallock. From Elba—Samuel Parker, farmer; Philetus Ford, farmer; L. Harris, merchant; Job A. Staples, merchant; Dr. Gray, physician; C. J. Sherwood, merchant; H. S. Selheimer, Oak Orchard Harbor; S. S. Bullis, President Buffalo, Attica and Arcade Railroad, Olean; E. W. Emmons, promoter.

The hearing was adjourned until February 19th, 11 A. M. at the Chamber of Commerce, New York city, to receive evidence as to the financial ability of the companies to build the railroads proposed. Additional papers and maps were filed with the Board.

Applications.

Application of the New York and New England Railroad Company for approval of a crossing sign, a blue print of which was submitted, for use on its road. Ordered approved, and blue print of sign filed.

The Board adjourned until Tuesday, February 19th, 11 A. M., New York city.

NEW YORK, FEBRUARY 19, 1895.

The Board met at the Chamber of Commerce, pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the meetings February 12 and 14, 1895, were read and approved.

Hearings.

In the matter of the application of the Staten Island Midland Railroad for approval of the use of the overhead trolley system in the operation of two routes, to be built, the Board heard J. N. Tuttle, counsel for the company, who requested an adjournment of both application No. 1 and application No. 2 (Application No. 2 having been set down for hearing on this date and the proof in application No. 1, of the consent of the local authorities, not being filed.)

The hearing was adjourned until March 19th, 11 A. M., Chamber of Commerce, New York city, when both applications will be considered.

In the matter of the application of the Port Richmond and Prohibition Park Railroad for approval of increase of capital stock, Colonel Bacon appeared for the company. The Board ordered that, in addition to the papers already filed, the company should file with it a copy of a contract, which sets forth what the proposed increase is to be used for.

In the matter of the applications of the International and Oak Orchard Harbor Railroad Company and the Batavia and Northern Railroad Company for certificates under section 59 of the Railroad Law, an adjourned hearing was had, General Robert Avery and General Wingate appearing for the companies and no one in opposition. A recess was taken in this matter to Brooklyn at 2 P. M.

BROOKLYN, FEBRUARY 19, 1895, 2 P. M.

The Board met at the City Hall. Present, Commissioners Beardsley, Rickard and Chapin.

Hearings.

In the matter of the complaint of James F. Graham and Walter R. Hall (both of the *New York Mercury*) against the Coney Island and Brooklyn Railroad Company, Walter R. Hall appeared and stated that inasmuch as the company was now running night cars and that a bill was pending in the Legislature to make a fare of but five cents for a continuous ride in cities on street railroads he would withdraw the complaint. The complaint was withdrawn and the matter ordered closed.

In the matter of the applications of the International and Oak Orchard Harbor Railroad Company and the Batavia and Northern Railroad Company for a certificate under section 59 of the Railroad Law, General Avery appeared for the companies and presented additional affidavits and papers. The hearing was adjourned until Tuesday, February 26th, 11 A. M., Chamber of Commerce, New York city, to hear additional evidence as to the bonafides of the enterprise.

The Board adjourned to meet in Albany, 2 P. M., February 20th.

ALBANY, FEBRUARY 20, 1895.

The Board met at 2 P. M. and at 3 P. M. All the commissioners and the Secretary appeared before the Assembly Railroad Committee on the Grade Crossing Bill, the hearing on which was adjourned.

The Board adjourned until February 26th, 11 A. M., Chamber of Commerce, New York city.

NEW YORK, FEBRUARY 26, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the applications of the International and Oak Orchard Harbor and the Batavia and Northern Railroad Companies for certificates under section 59 of the Railroad Law, an adjourned hearing was given. General Robert Avery and Richard Schermerhorn appeared for the companies. John H. O'Rourke, a contractor, was sworn, and testified as to his ability to take and complete a contract for building the railroads. Decision reserved.

In the matter of the application of the Ballston Electric Railroad Company for permission to use the trolley system in the operation of its railroad, the matter was considered at this meeting in New York, to which place it was adjourned from Albany. Hearing adjourned to Albany, February 27th, 2 P. M.

The Board adjourned until 2 P. M. at Albany, Wednesday, February 27th.

ALBANY, FEBRUARY 27, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Rickard.

Hearings.

J. Frank Ellis appeared on behalf of the United States Fish Commission, and applied for permission to keep fire in the cars of the Commission transported through this State for the purpose of carrying fish and fry. The Board advised Mr. Ellis that it had no authority under the law to permit the use of a boiler, and that, upon verified application, would grant permission to use a proper cooking range in the car for dining-car purposes.

In the matter of the application of the Ballston Electric Railroad Company for permission to use the overhead electrical trolley system in the operation of its railroad, John H. Burke appeared for the company. No one in opposition. Ordered granted.

Communications.

Letter of Richard W. Horner, of New York city, asking whether it is necessary to get an approval of this Board for the building of a private railroad from Croton-on-Hudson to the site of the new Croton dam. Ordered letter be written him that under section 20 of the Railroad Law, it would seem that a private railroad may be built without any consent of this Board.

Orders.

In the matter of the application of the Ballston Electric Railroad Company for permission to use the overhead electrical trolley system in the operation of its railroad. Ordered approval granted.

Bills.

The following bills were approved by the chairman:

James B. Lyon	$2 00
Albany Argus	87 45
American Express Company	2 43
New York and Boston Book Company	208 08
S. A. Beardsley, traveling expenses	31 30
	$331 26

The Board adjourned until Thursday, February 28th, at 2 P. M.

ALBANY, FEBRUARY 28, 1895.

The Board met pursuant to adjournment Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Complaints.

Letter of Messrs. Sibley, Lindsay and Curr, merchants of Rochester, relative to express charges at Rochester. Ordered letter be written them, that the next meeting of the Board would be March 5th, 2 P. M., at Albany, and that the Board would be pleased to go to Rochester, if necessary, in the matter.

T. E. Cross, lumber dealer, against the West Shore Railroad, letter received from complainant. Ordered sent the company.

The Board adjourned until Friday, March 1st, 11 A. M.

ALBANY, MARCH 1, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Chapin.

The minutes of the last meeting were read and approved. The Board went into executive session.

The Board adjourned until March 5th, 2 P. M.

ALBANY, FEBRUARY 28, 1895.—SPECIAL MEETING.

The Board met at 7:30 P. M. Present, Commissioners Beardsley, Rickard and Chapin.

The Board met a Special Committee of the Legislature, consisting of Hon. Fred S. Nixon, Hon. O. H. Cutler and Hon. Henry E. Abell, with Deputy Attorney-General Davis, counsel. There was an informal inquiry as to the workings of the Board, with suggestions as to proposed amendments of the law in relation to the powers of the Board.

The Board adjourned.

ALBANY, MARCH 5, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Complaints.

The Kingston City Railroad Company against the Colonial City Electric Railway Company, alleging danger at crossings of the former road by the latter, from the disregard of the latter road of the right of way of the former. Ordered copy of complaint sent the Colonial City Electric Railway Company.

T. E. Cross against the West Shore Railroad Company, relative to rates on lumber to Catskill. Reply of the West Shore Railroad to the last letter of Mr. Cross. Ordered copy forwarded to Mr. Cross, and he be written that the Board will fix another hearing in the matter if he desires.

Residents of Guilford against the New York, Ontario and Western Railway Company, relative to alleged dangerous crossing. Ordered copy be sent the company and that the Inspector be directed to make an inspection of the locality and report.

Applications.

Application of the Herkimer, Mohawk, Ilion and Frankfort Railway for a change of motive power from horses to the overhead electrical trolley system. Ordered hearing set down for Albany, March 21st, at 2 P. M., and that notice be published.

In the matter of the application of the Port Richmond and Prohibition Park Electric Railroad Company for an increase of capital stock from $100,000 to $200,000, a copy of the contract, required by the Board, having been filed. Ordered application approved.

The Secretary submitted a report in the matter of the accident on the Fitchburgh Railroad, at Troy, February 20th, 1895. Adopted.

The Secretary submitted a new form of annual report for street railroad companies, with Book of Explanations for same. Adopted.

Bills.

The following bills were approved:

Hudson River Telephone Company	$22 29
Western Union Telegraph Company	3 23
National Express Company	4 90
American Express	2 39
	$32 81

The Board took a recess until 11 A. M, March 6th.

ALBANY, MARCH 6, 1895.

The Board met at 11 A. M. Present, Commissioners Beardsley, Rickard and Chapin.

Complaints.

A. H. Williams & Co., wholesale druggists of Utica, against the railroads centering in Utica, as to rates on articles handled by them, from New York to

Utica. Letters received from the West Shore and New York Central Railroads, stating that the State Committee, which fixes freight rates, had agreed that the rates to wholesale druggists should be the same as wholesale grocers received. Letter from A. H. Williams & Co., stating that this is satisfactory, and thanking the Board for its action.

The Board adjourned until March 12, at 2 P. M.

ALBANY, MARCH 12, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Complaints.

Kingston City Railroad Company against the Colonial City Electric Railway Company, as to danger at crossings of their railroads. Answer of the Colonial City Electric Railway Company. Ordered hearing set down for Thursday, March 21st, at 2 P. M., at Albany.

Residents of Guilford against the New York, Ontario and Western Railway Company, alleging dangerous crossing. Report of the Inspector of his inspection of crossing. Ordered copy of Inspector's report be forwarded the company with a letter stating that the Board will make the recommendations of the Inspector its recommendation, unless the company desires a hearing.

T. E. Cross against the West Shore Railroad, relative to rates on lumber to Catskill. Letter received from Mr. Cross asking for a hearing. Ordered hearing set down for March 19th, 11 A. M., Chamber of Commerce, New York city.

The Board adjourned until March 19th, at New York city.

NEW YORK, MARCH 19, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the two applications for approval of the use of the trolley system as motive power by the Staten Island Midland Railroad Company, an adjourned hearing was had, Joseph H. Tuttle appearing for the company. The company having not yet obtained the consent of the local authorities the hearing was adjourned until April 2d, 11 A. M., Chamber of Commerce, New York city.

T. E. Cross against the West Shore Railroad, complaining as to rates on lumber to Catskill from Weehawken. T. E. Cross appeared for himself and H. E. Kinney, counsel, and F. LaBau, general freight agent, appeared for the West Shore Railroad. After hearing arguments and taking testimony it was decided to adjourn the hearing until April 2d, 11 A. M., at the Chamber of Commerce, New York city, and at the request of the complainant, who alleged that the New York Central and Hudson River Railroad had a six-cent rate on lumber to Albany and would quote him only a nine-cent rate to Catskill, it was ordered that the latter named company be notified to be represented at the hearing and that Mr. Wood be subpœnaed.

The Board adjourned until March 20th, at Albany, 2 P. M.

ALBANY, MARCH 20, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

The Board appeared before the Committees on Railroads of the Senate and Assembly, in joint session, on the proposed Grade Crossing Bill.

The Board adjourned until March 21st, 11 A. M.

ALBANY, MARCH 21, 1895.

The Board met at 11 A. M. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Complaints.

Residents of Caughdenoy against the New York, Ontario and Western Railway Company, asking that the company be compelled to stop certain mail and other trains at that station. Ordered copy be sent the company.

R. W. Sherman, of Glens Falls, against the New York Central and Hudson River Railroad Company, alleging unwarranted delay in transit of a shipment of candy. Ordered copy be sent the company.

Hearings.

In the matter of the application of the Herkimer, Mohawk, Ilion and Frankfort Electric Railway Company for approval of the Board of a change of motive power from horses to the overhead electrical trolley system; J. Ledlie Hees appeared for the company. No one in opposition. Ordered approved.

Kingston City Railroad Company against the Colonial City Electric Railway Company. S. D. Coykendall and A. Van Etten appeared for the complainant, and A. S. Newcomb for the Colonial City Electric Railway Company. Ordered that the draft of proposed city ordinance submitted be approved, as amended at this hearing.

Orders Issued.

Granting permission to the Herkimer, Mohawk, Ilion and Frankfort Electric Railway Company to change its motive power from horses to the overhead electrical trolley system.

Approving a proposed ordinance of the city of Kingston, as amended on the hearing, in the matter of the complaint of the Kingston City Railroad Company against the Colonial City Electric Railway Company.

Copy of the order of the Supreme Court, changing the name of the Port Richmond and Prohibition Park Electric Railroad Company to the Staten Island Traction Company. Received and ordered placed on file.

The Board adjourned until Tuesday, March 26th, 2 P. M.

ALBANY, MARCH 26, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Complaints.

Residents of Caughdenoy against the New York, Ontario and Western Railroad Company, asking for the stoppage of certain trains at that station. Answer of the company received, and copy ordered sent complainants.

Residents of Guilford against the New York, Ontario and Western Railway Company relative to alleged dangerous crossings. Answer of the company received. Ordered letter be written the complainants giving the points of the answer of the company, copy of which is on file.

Residents of Hoosick (Richmond and James) against the Fitchburg Railroad Company, asking for a new station. The Board having ordered that a new station be built, the Secretary was directed to write the President of the company for a copy of the plans of the new station, which he promised to send to the Board some months ago.

R. W. Sherman against the New York Central and Hudson River Railroad Company, alleging great delay in a shipment of candy from New York to Glens Falls. Answer of the company received, stating that it will settle the claim with the complainant.

C. Quinn and J. F. Nalley, trustees of the village of Greenbush, appeared before the Board and presented resolutions of the Board of Trustees of that

village, asking the New York Central and Hudson River Railroad to provide a means of access by vehicles to the East Albany Station, and asked the Board to take action in the matter. Ordered copies of the resolutions be sent the company for answer.

Residents of Cherry Creek, Chautauqua County, against the New York, Lake Erie and Western Railroad Company, alleging that the company refuses to rebuild the station at that point which has been burned down. Ordered copy of complaint be sent the company.

Reports.

Commissioner Rickard submitted a report in the matter of the accident on the New York Central and Hudson River Railroad, near Verona Station, February 9, 1895. Adopted and ordered issued.

Commissioner Rickard submitted a report in the matter of the derailment of Engine No. 121, on the Long Island Railroad, near New Venice, February 8th, 1895. Adopted and ordered issued.

Commissioner Rickard submitted a report in the matter of the derailment of mail train No. 32, north of Rhinecliff Station, February 15th, 1895. Adopted and ordered issued.

By direction of the Board the Secretary made application to the Civil Service Commission for certification of names for assistant stenographer, and the Secretary was instructed to notify the Civil Service Commission of the appointment of John J. Farley, of Albany, as assistant stenographer and messenger.

Bills.

The following bills were submitted and approved:

John M. Templeton	$4 30
White Law Book Company	5 50
Banks & Bros	6 85
	$16 65

The Board adjourned until March 27th, at 11 A. M.

ALBANY, MARCH 27, 1895.

The Board met at 11 A. M. All present.

The Board went into executive session, and afterward adjourned until April 2d, 11 A. M., Chamber of Commerce, New York city.

NEW YORK, APRIL 2, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Complaints.

Citizens of Caughdenoy against the New York, Ontario and Western Railway Company, asking for the stoppage of additional trains at that station. Reply of the complainants to the answer of the company received. Ordered that Mr. West, one of the complainants, be notified if they desire a hearing one will be given April 9th, 2 P. M., at Albany. Reply of Mr. West to the letter of the Board received. Ordered Inspector make an inspection.

G. W. Hoyt and A. L. Davenport against the New York, New Haven and Hartford Railroad Company, alleging its refusal to check packages. Ordered copy be sent the company.

Hearings.

In the matter of the application of the Staten Island Midland Railroad Company for approval of the use of the trolley system as motive power, an adjourned hearing was had. Joseph N. Tuttle, counsel for the company, appeared

and said it had not yet received the consents of the local authorities, and the hearing was adjourned until April 30th, 11 A. M., Chamber of Commerce, New York city.

T. E. Cross against the West Shore and New York Central and Hudson River Railroad. No appearance by complainant. F. LaBau appeared for the West Shore, W. L. Kingman for the New York Central. On motion the complaint was dismissed.

Commissioner Rickard submitted a report in the matter of the accident occurring on the Court Street line of the Brooklyn Heights Railroad Company March 26th, resulting in the killing of Mrs. Mary Ann Medinger. Ordered that the report be adopted and that a copy of the report, together with a copy of the minutes taken, together with copies of the recommendations heretofore made, both in general and to the Brooklyn companies, be transmitted to the Attorney-General for such action as seems to him proper, if the company does not comply with the Board's recommendations within ten days.

Bills.

The following bills were approved:

Hudson River Telephone Company	$10 54
John Craeyton	27 32
Frank K. Baxter, inspector	14 00
National Express Company	199 91
National Press Intelligence Company	2 55
Western Union Telegraph Company	2 58
Charles R. DeFreest, traveling expenses	57 65
	$314 55

The Board adjourned to Albany, April 9th, 2 P. M.

ALBANY, APRIL 4, 1895.—SPECIAL MEETING.

The Board met at 11 A. M. Present, Commissioners Beardsley and Rickard.

The Secretary submitted the plans of the proposed new station at Hoosick, on the Fitchburg Railroad, received from the company. Ordered that the plans be approved and that the company be notified of that fact and that the Board assumes that the work will be begun at once and prosecuted as quickly as possible.

The Board adjourned.

ALBANY, APRIL 9, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meetings were read and approved.

Complaints.

Resolution of the Common Council of Utica, asking that the New York, Ontario and Western Railway Company be compelled to erect gates at the Sunset avenue crossing in that city. Ordered copy be sent the company, and it be asked if it desires a hearing in the matter.

Citizens of Glen Cove against the Long Island Railroad, protesting against the removal of the Glen Cove depot. Ordered copy be sent the company.

G. W. Hoyt and A. L. Davenport against the New York, New Haven and Hartford Railroad Company, relative to checking parcels. Answer of the company received. Ordered copy be sent complainants and the company be notified that a hearing will be given April 16, 11 A. M., at 192 Broadway, New York city.

Letter of Charles Francis Bates, asking as to the right of a railroad company to limit the time in which a ticket may be used. Ordered he be written that the matter complained of has been disposed of by the courts.

Applications.

Applications of the Allegany and Kinzua and the New York and New England Railroad Companies, to be relieved from the provisions of the automatic brakes and couplers' act for a year. Ordered that they be relieved.

Application of the Metropolitan Street Railway Company and the Sixth Avenue Railroad Company for the approval of the Board of the use of the underground trolley system of motive power. Ordered that hearing be set down for May 1, Chamber of Commerce, New York city, and that notice of hearing be advertised in the *New York Post, Mail and Express, Times* and *Tribune*, every other day until hearing.

Commissioner Rickard submitted a report in the matter of an accident near North Leroy, on the Lehigh Valley Railroad, February 9, 1895. Adopted and ordered issued.

Commissioner Rickard submitted a report in the matter of an accident on the New York, Lake Erie and Western Railroad near Warsaw, Feb. 13. Adopted and ordered issued.

Bills.

The following bills were approved:

Robinson Electric Works	$5 70
American Express Company	102 80
	$108 50

The Board adjourned until Tuesday, April 16, 11 A. M., at Commissioner Chapin's office, 192 Broadway, New York city.

NEW YORK, APRIL 16, 1895.

The Board met at Commissioner Chapin's office, 192 Broadway, at 11 A. M., pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

G. W. Hoyt and A. L. Davenport against the New York, New Haven and Hartford Railroad Company, relative to the practice of that company charging for carrying parcels. George L. Connor, general traffic manager, and George A. Morton, general baggage agent, represented the company. Neither the complainants nor anyone representing them appeared. After waiting until 11.30 the complaint was ordered dismissed.

Complaints.

Citizens of Glen Cove against the Long Island Railroad Company, protesting against the removal of the Glen Cove station. Preliminary answer of the company received. Ordered copy sent complainants.

Residents of Caughdenoy against the New York, Ontario and Western Railway Company, asking that more trains stop at that station. Report of the Inspector of the Board. Ordered that the company be written and asked if it desire a hearing.

Messrs. Robinson and Hepburn against the Central Vermont Railroad Company as to rates on coal. Ordered copy be sent the company.

Applications.

Application of the Stillwater and Mechanicville Railroad Company for the approval of the Board of a change of motive power from horses to the overhead electrical trolley system. Ordered hearing be set down for Tuesday, May 7th, 2 P. M., at Albany, and notice of hearing be advertised in such papers as are at Stillwater and Mechanicville, for two weeks.

Application of the Cortland and Homer Traction Company for approval of the crossing by its railroad of the tracks of the Syracuse, Binghamton and New York Railroad in the village of Cortland. Ordered that the company be written and informed that there should be some protection at the crossing.

Communications.

Letter from Daniel F. Lewis, President of the Brooklyn Heights Railroad Company, stating that the company has adopted the recommendations of the Board, in the way of safe operation of their cars, and asking if the Board insists that a guard shall be placed on the side of open cars. Ordered that letter, copy of which is on file, be written the company.

The Board remained in New York, Wednesday and Thursday, April 17th and 18th, to examine the working of a proposed underground system of electrical propulsion on Lenox avenue and other streets, and to examine the working of a car fender.

Bills.

The following bill was approved:

Weed Parsons Printing Company.....$64 62

The Board adjourned until April 23d, 2 P. M.

ALBANY, APRIL 23, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Rickard.

The minutes of the last meeting were read and approved.

Applications.

Application of the Herkimer, Mohawk, Frankfort and Ilion Electric Railroad Company for the approval of the Board of an increase of capital stock from $55,000 to $150,000. Ordered approved.

Application of the Troy City Railway Company and the Troy and Cohoes Railroad Company for approval of a change of motive power from horses to the overhead electrical trolley system. Ordered hearing set down for May 7th, 2 P. M., at Albany. Ordered notice of hearing be advertised in the *Cohoes Evening Dispatch*, and the *Troy Budget* and *Observer*.

Application of the Metropolitan Street Railway Company and the Twenty-third Street Railway Company for permission to use the cable system in the operation of the railroad on Twenty-third street, New York, from the East to the North River. Ordered hearing set down for May 1st, 11 A. M., Chamber of Commerce, New York city, and notice be advertised.

Complaints.

Citizens of Glen Cove against the Long Island Railroad Company, relative to the removal of the station. Petition in favor of removal. Reply of the complainants, and letters in favor of the removal received. Hearing ordered for April 24th, at Glen Cove, 2 P. M.

Citizens of Caughdenoy against the New York, Ontario and Western Railway Company, relative to additional train facilities. Letter of John B. Kerr, vice-president of the company, stating that the company is about to change its time-table, and that the superintendent has been directed to see whether stops by trains, which might be of any accommodation to the residents of Caughdenoy, can be made. Ordered that he be written and asked to inform the Board of what changes are made and what additional trains will stop.

The Common Council of Utica against the New York, Ontario and Western Railway Company, asking for the erection of gates at the Sunset avenue crossing of that railroad. Answer of the company received, stating that there is no public necessity for gates at that point. Ordered copy sent complainants; that a count of the traffic over the crossing each hour and day for a week be made; and that a hearing be set down for May 7th, at Albany, at 2 P. M.

Petition of the Niagara Falls and Lewiston Railroad Company, asking for approval of change of gauge of its railroad from narrow to standard gauge. Ordered application granted.

Letter of D. F. Van Vleet, counsel of the Cortland and Homer Traction Company, relative to its application for approval of the crossing of the tracks

of the Syracuse, Binghamton and New York Railroad by its railroad at Cortland.

Messrs. Robinson and Hepburn against the Central Vermont Railroad Company, alleging excessive rates on bituminous coal. Answer of the company received, stating that the overcharge was an error, and the amount will be refunded to the complainants. Ordered copy sent complainants, and the case be closed.

Bills.

The following bill was approved:

Stuart G. Speir.....$1 00

The Board adjourned until April 24th, 2 P. M., at Glen Cove, N. Y.

GLEN COVE, L. I., N. Y., APRIL 24, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin, and gave a hearing in the matter of the complaint of residents of Glen Cove against the Long Island Railroad, protesting against the proposed change of the station at Glen Cove. J. B. C. Tappan appeared for those in favor of the change; Geo. B. Stoddard and E. C. Payne appeared for those opposed to the change. A large number of witnesses were sworn and their testimony taken, and the Board reserved its decision.

The Board adjourned until May 1st, 11 A. M., at the Chamber of Commerce, New York city.

NEW YORK, APRIL 30, 1895.

The Board met at the Chamber of Commerce, pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meetings, April 23d and 24th, were read and approved.

Hearings.

In the matter of the application of the Staten Island Midland Railroad Company for approval of the use of the electrical trolley system on portions of its route, an adjourned hearing was held, C. G. Kolff appearing for the company and no one in opposition. The application was ordered granted, so far as the following route is concerned: From the intersection of the Richmond Road with Oak street, along Oak street to the Clove Road, and along the Clove Road to Richmond Turnpike.

Orders.

Ordered that the application of the Staten Island Midland Railroad Company for permission to use the overhead electrical trolley system be granted on the route described above.

Ordered that the application of the Cortland and Homer Traction Company for permission to cross the tracks of the Delaware, Lackawanna and Western Railroad, at Cortland, be granted.

The Board adjourned until May 1st, 11 A. M., at the Chamber of Commerce, New York city.

NEW YORK, MAY 1, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the application of the Metropolitan Street Railway and the Twenty-third Street Railroad Companies for approval of the use of cable

power in the operation of the railroad in Twenty-third street, from the East to the North River, New York city. H. A. Robinson appeared for companies. No one in opposition. The proofs required were filed with the Board. Ordered approval granted.

In the matter of the application of the Metropolitan Street Railway Company and the Sixth Avenue Railroad Company for the approval of the Board of the use of an underground current of electricity as a motive power, on Lenox avenue and other streets, New York city. H. A. Robinson, counsel, appeared for the companies. No one in opposition. W. H. Page, Jr., for Headley, Lauterbach & Johnson, appeared and asked that a condition be placed in the order relative to rights which the Third Avenue Railroad Company claims in One Hundred and Sixteenth street. Ordered approval granted and that the following condition be placed in the order of the Board: "This order is granted without prejudice to any rights of the Third Avenue Railroad Company to have the One Hundred and Sixteenth street section of the route applied for operated by cable traction by the Metropolitan Street Railway Company."

Complaints.

Citizens of Cherry Creek, Chautauqua County, against the New York, Lake Erie and Western Railroad Company, asking that a passenger station be erected at that place. Answer of the company, refusing to build the station. Ordered that the company be notified to have a representative present before the Board at its meeting in Albany on Tuesday, May 7th.

Complaint of Arthur S. Core, of White Plains, relative to freight rates on fertilizing material, alleging that the rates are excessive. Ordered that the complainant be written for the name of the railroad company or companies against which he complains.

Common Council of Utica against the New York, Ontario and Western Railway Company, asking that gates be established at the Sunset avenue crossing of that railroad, in Utica. Letter from Thomas P. Fowler, president of the company, asking that the hearing set down for May 7th be postponed. Ordered that he be notified that the hearing will go on on that date; that the testimony of the complainants will be taken, and that if the company desires a brief adjournment application may be made at that time.

Applications.

Application of the Chateaugay Railroad Company, asking for exemption from the provisions of chapters 543 and 544 of the Laws of 1893, relative to the equipment of freight cars with automatic brakes and couplers. Ordered that exemption for 1894 be granted, and that the Board suggests that the company shall make some progress in equipping their cars.

Application of the Long Island Railroad Company for leave to abandon the present station at Glen Cove. Ordered application be denied.

Application of the United States Commission of Fish and Fisheries for approval of a cooking range to be used on its Car No. 4. Ordered that the style of range described, and of which a cut is on file, be approved for use in Car No. 4.

Orders.

Ordered that the orders as shown above be issued.

The Board adjourned until May 7th, 2 P. M., at Albany.

ALBANY, MAY 7, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the application of the Troy City and the Troy and Cohoes Railroad Companies for approval of a change of motive power on a portion of the route of the Troy and Cohoes Company. William Shaw, counsel, appeared

for the application, no one in opposition. M. Cooney appeared and objected to the maintenance of a switch as at present laid. He was informed that that was a matter for the local authorities. Ordered application granted.

In the matter of the application of the Staten Island Electric Railroad Company, filed this day, for a construction of one of the conditions in an order of the Board dated February 27, 1893, to the Staten Island Belt Line Railroad Company, to whose rights the first named company has succeeded, W. F. Sheehan appeared as counsel for the company. Order submitted by counsel approved and issued.

In the matter of the complaint of the Common Council of the city of Utica against the New York, Ontario and Western Railway Company, asking that safety gates be erected at the Sunset avenue crossing of said railroad in Utica. Corporation Counsel Spriggs, President Earle, of the Common Council, City Clerk Cantwell and Chapman L. Johnson, city engineer, appeared for the Common Council. The company was not represented. Evidence was taken on the part of the city and it was ordered that the hearing be adjourned until May 13th, 2 P. M., for the purpose of hearing any evidence that the company may desire to present, the case to be closed at that time.

In the matter of the complaint of residents of Cherry Creek against the New York, Lake Erie and Western Railroad Company, asking for the erection of a passenger station, Mr. Brownell, of Sprague, Morey, Sprague & Brownell, appeared for the company; F. C. Wheeler represented the complainants. It was agreed, Mr. Wheeler consenting thereto, that the matter be adjourned until September 9th, 2 P. M., at Albany, with the understanding that the company will endeavor in the meantime to erect a station at Cherry Creek.

In the matter of the application of the Stillwater and Mechanicville Railroad Company for the approval of the Board of a change of motive power from horses to the overhead electrical trolley system, J. A. Powers appeared for the company; no one in opposition. Ordered that approval be granted, and in addition to the usual conditions there be added one for a safety device at the crossing of the Delaware and Hudson Canal Company's Railroad.

In the matter of the application of the Buffalo and Tonawanda Electric Railway Company for approval of an increase of capital stock from $100,000 to $250,000, Frederick Chormann appeared for W. Carly Ely, counsel. The Board took the papers and reserved decision.

Complaints.

Messrs. Robinson and Hepburn against the Central Vermont Railroad Company, letter received from the complainants stating that the company had satisfactorily settled the complaint, according to its promise.

Applications.

Application of the Gloversville and Broadalbin Railroad Company for a certificate under section 59 of the Railroad Law. Ordered that the company be written that the Board would set a date for the hearing after proof of publication of its articles of association is received.

Bills.

The following bills were approved:

National Express Company	$31 18
Alex. Rosenthal	30 00
Western Union Telegraph Company	3 49
National Press Intelligence Company	2 25
Hudson River Telephone Company	14 83
	$81 75

The Board adjourned until 2 P. M., Monday, May 13th, at Albany.

ALBANY, MAY 13, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Applications.

Application of the Gloversville and Broadalbin Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing be set down for Tuesday, June 4th, 2 P. M., at Albany, and notice be advertised in two Gloversville newspapers.

Application of the Long Island Railroad Company for permission to discontinue its present station at Farmingdale and establish it 1,160 feet east. Ordered hearing set down on said application for Tuesday, May 21st, 11 A. M., at Commissioner Chapin's office, 192 Broadway, New York city, and that the company be required to post notices of such hearing, prepared by the Board, copy on file, in the station at Farmingdale, and at such other convenient place or places in the village of Farmingdale as may be deemed necessary, immediately.

Complaints.

Ezra A. Tuttle against the Long Island Railroad Company, asking that the company be compelled to establish a station at East Moriches. Ordered copy be sent the company.

John W. Morris against the New York Central and Hudson River Railroad Company, relative to an attempt to check a baby carriage at the Mott Haven station. Ordered copy be sent the company.

The Common Council of the city of Utica against the New York, Ontario and Western Railway Company, asking that safety gates be erected and maintained at the Sunset avenue crossing of that railroad in said city. The company having applied for an adjournment, and having placed a flagman at the crossing, pending the determination of the matter by the Board, ordered that the hearing be adjourned until June 4th, 2 P. M., at Albany.

Orders.

Ordered that the Herkimer, Mohawk, Ilion and Frankfort Electric Railway be notified that the tracks of said railroad in Frankfort should be laid in the middle of the street.

Bills.

The following bill was approved:

American Express Company $20 08

The Board adjourned until Tuesday, May 21st, 11 A. M., at Commissioner Chapin's office, New York city.

NEW YORK, MAY 21, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the application of the Long Island Railroad Company for leave to move the station at Farmingdale 1,160 feet east of its present location, the Board heard A. A. Gardener, attorney for the application, and A. F. Van Thin, attorney against it. After hearing the evidence on each side the Board determined to visit Farmingdale on the morning of Wednesday, May 22d.

Applications.

Application of the Union Railway Company of New York city, for the approval of the Board of the operation of its railroad on the Southern Boulevard, between Third avenue and Boston avenue, by the overhead electrical trolley system. Ordered hearing set down for Friday, May 31st, 2 P. M., at the Chamber of Commerce, New York city, and that notice of hearing be published in the *Sun*, *Times*, *Herald* and *Mail and Express* daily until hearing.

Complaints.

Residents of Westchester County vs. the Manhattan Railway Company, the Suburban Rapid Transit Company and the New York, New Haven and Hartford Railroad Company, as to rates of fare. Ordered copy of complaint be sent the companies.

John W. Morris against the New York Central and Hudson River Railroad Company, relative to refusal to carry baby carriage without being "released." Answer of the company received. Ordered copy be sent complainant.

Residents of East Moriches, L. I., against the Long Island Railroad Company, by E. A. Tuttle, attorney, asking that the company be compelled to establish a station at that point. Answer of the company received. Ordered sent complainants.

Ordered that a copy of the Inspector's report of his inspection of the Mt. McGregor Railroad, showing it to be in unsafe condition, be sent the receiver of the company, with the recommendation that the road shall not be operated until it is placed in safe condition, satisfactory to the Board.

The Board adjourned until Friday, May 31st, 2 P. M., Chamber of Commerce, New York city.

NEW YORK, MAY 31, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Ezra A. Tuttle and residents of East Moriches against the Long Island Railroad Company, asking that a station be established at East Moriches. Mr. Hemmens, representing Mr. Tuttle, appeared and asked that a hearing be set down. Ordered hearing set down for Thursday, June 6, 11 A. M., Chamber of Commerce, New York city.

In the matter of the application of the Southern Boulevard Railroad Company for approval of the Board of a change of motive power to the overhead electrical trolley system. E. A. Maher, president of the company, and W. H. Page, Jr., counsel, appeared for the application. No one appeared in opposition. The papers offered being defective, the matter was adjourned until Tuesday, June 4, 2 P. M., for the filing of corrected papers.

Complaints.

Elmer R. Harmon, of Chili Station, against the New York Central and Hudson River Railroad Company, relative to the condition of the approaches to the cars at that station. Copy ordered sent the company.

Franklin Maher against the Long Island Railroad Company, relative to fare charged where commutation ticket had been forgotten. Letter received in answer to letter from Board. Ordered filed, and letter from this Board, copy of which is on file, ordered sent the company.

Village of Sidney against the Delaware and Hudson Canal Company, asking that gates be erected and maintained at all times at the main street in said village. Ordered copy be sent the company.

The Watertown Paper Company against the Rome, Watertown and Ogdensburg branch of the New York Central and Hudson River Railroad Company, alleging that two rails were torn up from their branch track by employes of the company, and that the company refused to take cars off the branch for shipment. Ordered copy be sent the company.

Residents of Westchester County against the Manhattan and Suburban elevated railroads and the New York, New Haven and Hartford Railroad, letter received from the New York, New Haven and Hartford Railroad, stating that the complaint does not apply to them. Ordered copy of the letter be sent the complainants.

Letter received from the Union Railway Company, stating the company has complied with the recommendation of the Board that an inverted V-shaped trough be placed over the trolley wires at the One Hundred and Thirty-eighth street crossing of the New York Central and Hudson River Railroad.

The Board adjourned until Tuesday, June 4, 2 P. M., at Albany.

ALBANY, JUNE 4, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the application of the Gloversville and Broadalbin Railroad Company for a certificate under section 59 of the Railroad Law, Frank Burton, counsel, and Henry C. Frink, vice-president, appeared for the company; no one appeared in opposition. After hearing arguments and evidence, the certificate was ordered granted.

In the matter of the application of the Rochester and Southern Railroad Company for a certificate under section 59 of the Railroad Law, Joseph W. Taylor, counsel, and J. F. Schaperkotter appeared for the company; no one in opposition. After hearing argument, and reading and filing affidavits, the certificate was ordered granted.

Applications.

Application of the Niagara Falls and Lewiston Railroad Company for approval of an increase of capital stock from $100,000 to $1,400,000. Herbert P. Bissell, counsel, and George A. Ricker, engineer, appeared for the application; no one in opposition. Ordered granted.

Application of the Rome City Street Railway Company for the approval of the Board of a change of motive power from horses to the overhead electrical trolley system of motive power. Ordered hearing set down for Tuesday, June 25, 2 P.M., at Albany, and notice be advertised in the *Rome Daily Sentinel* and *Rome Republican*.

Application of the Racquette River Railroad Company for a certificate under section 59 of the Railroad Law. Ordered that hearing be set down for Albany, June 25, 2 P. M., and notice advertised.

Complaints.

Residents of Westchester County against the Manhattan Railway, the Suburban Rapid Transit Company and the New York, New Haven & Hartford Railroad Company. Answer of the Manhattan Railway received. Ordered copy be sent complainants, and that a hearing on the complaint be set down for Tuesday, June 18, Chamber of Commerce, New York city, 11 A. M.

Common Council of Utica against the New York, Ontario and Western Railway Company, asking for the erection of gates at the Sunset avenue crossing in Utica. Letter from the company received, stating that it would be convenient to have the hearing in New York city. Ordered hearing set down for Tuesday, June 18, 11 A. M., Chamber of Commerce, New York city.

Franklin Maher against the Long Island Railroad Company, as to refunding fare. Letter received from the company. Ordered filed.

John W. Morris against the New York Central and Hudson River Railroad Company, relative to failure to carry baby carriage without a "release." Letter received from complainant stating that he does not want a hearing and thanking the Board. Ordered filed and case closed.

The Watertown Paper Company against the New York Central and Hudson River Railroad Company (Rome, Watertown and Ogdensburg branch), relative to refusal to take cars from the complainant's side track for shipment. Additional letter received from complainant. Ordered copy sent the company.

Orders Granted.

Gloversville and Broadalbin Railroad Company, certificate under section 59 of the Railroad Law.

Rochester and Southern Railroad Company, certificate under section 59 of the Railroad Law.

Rochester (Southern) Line and Honoeye Falls Railroad Company, as to overhead crossing at or near Honoeye Falls.

Niagara Falls and Lewiston Railroad Company, increase of capital stock from $100,000 to $1,400,000.

Bills.

The following bills were approved:

S. A. Beardsley	$34 25
John A. Heenan	4 00
National Railway Publishing Company	5 00
Western Union Telegraph Company	6 79
Hudson River Telephone Company	15 54
	$65 58

The Board adjourned until Thursday, June 6, 11 A. M., Chamber of Commerce, New York city.

NEW YORK, JUNE 6, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Residents of East Moriches against the Long Island Railroad Company, asking for a station to be located at East Moriches; Ezra A. Tuttle, counsel, appeared for complainants, and asked for an adjournment. E. R. Reynolds, general manager, and W. H. Blood, general superintendent, appeared for the company. The hearing was adjourned until Tuesday, June 18th, 11 A. M.

Applications.

Application of the Long Island Railroad Company for approval of an interlocking switch and signal system at the Cypress avenue crossing of Brooklyn City dummy railroad in Brooklyn. Ordered hearing be set down for Tuesday, June 13th, 11 A. M., Chamber of Commerce, New York city.

The Board adjourned until Tuesday, June 13th, New York city.

NEW YORK, JUNE 13, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the application of the Long Island Railroad Company for permission of the Board to discontinue the full stop and crossing on signal on its Manhattan Beach Division, at the Cypress avenue crossing of the Brooklyn City Railroad dummy road. Ordered that permission be granted.

Applications.

Application of the Ogdensburg Street Railway Company for the approval of the Board of a change of motive power from horses to the overhead electrical trolley system, and of the use of the trolley system on extensions of the road. Ordered hearing set down for Tuesday, June 25th, 2 P. M., Albany, and notice be advertised.

Application of the Ogdensburg Street Railway Company for the approval of the Board of an increase of its capital stock from $70,000 to $150,000. Ordered hearing be set down for Tuesday, June 25th, 2 P. M., Albany.

The Board adjourned until Tuesday, June 18th, at the Chamber of Commerce, New York city.

NEW YORK, JUNE 18, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Residents of Westchester County against the Manhattan Elevated Railway Company, the Suburban Rapid Transit Company, and the New York, New Haven and Hartford Railroad Company. E. C. Hoyt, Richard S. Emmett, Jr., and Henry W. Harden, appeared for the complainants, and Brainard Towles for the Manhattan and Suburban companies. After taking testimony and hearing arguments, decision was reserved.

Residents of East Moriches against the Long Island Railroad Company, asking for the establishment of a station at that point. Ezra A. Tuttle appeared for the complainants, and W. J. Kelly for the company. After hearing arguments, the hearing was adjourned until Tuesday, July 9th, 2 P. M., at the Beach View House, at East Moriches.

Common Council of the city of Utica against the New York, Ontario and Western Railway Company, asking that gates be erected and maintained at the Sunset avenue crossing of that railroad in Utica. John B. Kerr appeared for the company, and Fred A. Spriggs, corporation counsel, for the city. The company agreed to erect and maintain gates as desired. The case was ordered closed.

Complaints.

A. Deimel against the Fonda, Johnstown and Gloversville Railroad Company, asking that the company be required to give the necessary accommodations for a switch to his coal sheds at Johnstown and at Gloversville. Ordered copy be sent the company, and hearing fixed for June 25th, 2 P. M., Albany.

The Watertown Paper Company against the New York Central and Hudson River Railroad Company, alleging refusal to take loaded cars for shipment on the line of the Rome, Watertown and Ogdensburg, at Watertown. Answer of the company received, stating that the cause of complaint had been removed. Ordered copy of it be sent to the complainant.

Applications.

Application of the Dunkirk and Fredonia Railroad Company for the approval of the Board of an increase of capital stock from $75,000 to $150,000. Ordered approved.

The Board adjourned until Tuesday, June 25th, 2 P. M.

ALBANY, JUNE 25, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Rickard. The minutes of the last meeting were read and approved.

Hearings.

A. Deimel against the Fonda, Johnstown and Gloversville Railroad Company, asking that the company be compelled to give the necessary accommodation for switches to his coal sheds at Johnstown and Gloversville. Hon. Simon Rosendale appeared for the complainant; A. D. L. Baker for the company. After hearing argument and taking evidence, the hearing was adjourned until July 16, 2 P. M., at Albany.

In the matter of the application of the Racquette River Railroad Company for a certificate under section 59 of the Railroad Law, Frank White appeared for the company; no one in opposition. After hearing argument and taking testimony, the application was ordered granted.

Application of the Ogdensburg Street Railway Company for approval of a change of motive power from horses to the overhead electrical trolley system.

Complaints.

Residents of Westchester County vs. the Manhattan Railway Company, the Suburban Rapid Transit Company and the New York, New Haven and Hartford Railroad Company, as to rates of fare. Ordered copy of complaint be sent the companies.

John W. Morris against the New York Central and Hudson River Railroad Company, relative to refusal to carry baby carriage without being "released." Answer of the company received. Ordered copy be sent complainant.

Residents of East Moriches, L. I., against the Long Island Railroad Company, by E. A. Tuttle, attorney, asking that the company be compelled to establish a station at that point. Answer of the company received. Ordered sent complainants.

Ordered that a copy of the Inspector's report of his inspection of the Mt. McGregor Railroad, showing it to be in unsafe condition, be sent the receiver of the company, with the recommendation that the road shall not be operated until it is placed in safe condition, satisfactory to the Board.

The Board adjourned until Friday, May 31st, 2 P. M., Chamber of Commerce, New York city.

NEW YORK, MAY 31, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Ezra A. Tuttle and residents of East Moriches against the Long Island Railroad Company, asking that a station be established at East Moriches. Mr. Hemmens, representing Mr. Tuttle, appeared and asked that a hearing be set down. Ordered hearing set down for Thursday, June 6, 11 A. M., Chamber of Commerce, New York city.

In the matter of the application of the Southern Boulevard Railroad Company for approval of the Board of a change of motive power to the overhead electrical trolley system. E. A. Maher, president of the company, and W. H. Page, Jr., counsel, appeared for the application. No one appeared in opposition. The papers offered being defective, the matter was adjourned until Tuesday, June 4, 2 P. M., for the filing of corrected papers.

Complaints.

Elmer R. Harmon, of Chili Station, against the New York Central and Hudson River Railroad Company, relative to the condition of the approaches to the cars at that station. Copy ordered sent the company.

Franklin Maher against the Long Island Railroad Company, relative to fare charged where commutation ticket had been forgotten. Letter received in answer to letter from Board. Ordered filed, and letter from this Board, copy of which is on file, ordered sent the company.

Village of Sidney against the Delaware and Hudson Canal Company, asking that gates be erected and maintained at all times at the main street in said village. Ordered copy be sent the company.

The Watertown Paper Company against the Rome, Watertown and Ogdensburg branch of the New York Central and Hudson River Railroad Company, alleging that two rails were torn up from their branch track by employes of the company, and that the company refused to take cars off the branch for shipment. Ordered copy be sent the company.

Residents of Westchester County against the Manhattan and Suburban elevated railroads and the New York, New Haven and Hartford Railroad, letter received from the New York, New Haven and Hartford Railroad, stating that the complaint does not apply to them. Ordered copy of the letter be sent the complainants.

Letter received from the Union Railway Company, stating the company has complied with the recommendation of the Board that an inverted V-shaped trough be placed over the trolley wires at the One Hundred and Thirty-eighth street crossing of the New York Central and Hudson River Railroad.

The Board adjourned until Tuesday, June 4, 2 P. M., at Albany.

ALBANY, JUNE 4, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

In the matter of the application of the Gloversville and Broadalbin Railroad Company for a certificate under section 59 of the Railroad Law, Frank Burton, counsel, and Henry C. Frink, vice-president, appeared for the company; no one appeared in opposition. After hearing arguments and evidence, the certificate was ordered granted.

In the matter of the application of the Rochester and Southern Railroad Company for a certificate under section 59 of the Railroad Law, Joseph W. Taylor, counsel, and J. F. Schaperkotter appeared for the company; no one in opposition. After hearing argument, and reading and filing affidavits, the certificate was ordered granted.

Applications.

Application of the Niagara Falls and Lewiston Railroad Company for approval of an increase of capital stock from $100,000 to $1,400,000. Herbert P. Bissell, counsel, and George A. Ricker, engineer, appeared for the application; no one in opposition. Ordered granted.

Application of the Rome City Street Railway Company for the approval of the Board of a change of motive power from horses to the overhead electrical trolley system of motive power. Ordered hearing set down for Tuesday, June 25, 2 P.M., at Albany, and notice be advertised in the *Rome Daily Sentinel* and *Rome Republican*.

Application of the Racquette River Railroad Company for a certificate under section 59 of the Railroad Law. Ordered that hearing be set down for Albany, June 25, 2 P. M., and notice advertised.

Complaints.

Residents of Westchester County against the Manhattan Railway, the Suburban Rapid Transit Company and the New York, New Haven & Hartford Railroad Company. Answer of the Manhattan Railway received. Ordered copy be sent complainants, and that a hearing on the complaint be set down for Tuesday, June 18, Chamber of Commerce, New York city, 11 A. M.

Common Council of Utica against the New York, Ontario and Western Railway Company, asking for the erection of gates at the Sunset avenue crossing in Utica. Letter from the company received, stating that it would be convenient to have the hearing in New York city. Ordered hearing set down for Tuesday, June 18, 11 A. M., Chamber of Commerce, New York city.

Franklin Maher against the Long Island Railroad Company, as to refunding fare. Letter received from the company. Ordered filed.

John W. Morris against the New York Central and Hudson River Railroad Company, relative to failure to carry baby carriage without a "release." Letter received from complainant stating that he does not want a hearing and thanking the Board. Ordered filed and case closed.

The Watertown Paper Company against the New York Central and Hudson River Railroad Company (Rome, Watertown and Ogdensburg branch), relative to refusal to take cars from the complainant's side track for shipment. Additional letter received from complainant. Ordered copy sent the company.

Orders Granted.

Gloversville and Broadalbin Railroad Company, certificate under section 59 of the Railroad Law.

Rochester and Southern Railroad Company, certificate under section 59 of the Railroad Law.

Rochester (Southern) Line and Honoeye Falls Railroad Company, as to overhead crossing at or near Honoeye Falls.

Niagara Falls and Lewiston Railroad Company, increase of capital stock from $100,000 to $1,400,000.

R. E. Waterman appeared for the company; no one in opposition. Ordered application be granted.

Application of the Ogdensburg Street Railway Company for approval of an increase of capital stock from $70,000 to $150,000. Ordered application granted.

Application of the Rome City Railway Company for approval of a change of motive power from horses to the trolley system or a compressed air system. William P. Rayland appeared for the company; no one in opposition. The application was granted for the use of the compressed air system.

Complaints.

Elmer R. Harmon, of Chili Station, against the New York Central and Hudson River Railroad Company, relative to the difficulty of boarding trains at that station. Answer of the company received, stating that the cause of complaint has been remedied. Ordered copy sent complainant.

Charles W. Ecob against the Delaware and Hudson Canal Company, asking that the company be compelled to erect and maintain gates at the main street, day and night, every day in the week. Answer of the company received. Ordered copy be sent complainant.

Residents of Fuller's Station, Guilderland Centre, etc., against the West Shore Railroad Company, relative to train service. Answer of the company received. Ordered copy be sent complainants.

Residents of Guilford against the New York, Ontario and Western Railway Company, relative to dangerous crossings. Letter from complainants. Ordered that the company be asked what steps it has taken in the matter.

Franklin Maher against the Long Island Railroad Company, relative to payment of fare where commutation ticket had been forgotten. Letter received from complainant. Ordered that letter be written complainant as on file, and case closed.

Applications.

Application of the Buffalo and Niagara Falls Electric Railway for approval of the use of the trolley system of motive power in the operation of its railroad. Ordered hearing be set down for July 16th, 2 P. M., at Albany, and notice be advertised.

Application of the Cohoes City Railway Company for approval of the use of the trolley system of motive power in the operation of its railroad. Ordered hearing be set down for July 16th, 2 P. M., at Albany, and notice be advertised.

Orders granted.

Racquette River Railroad Company, a certificate under section 59 of the Railroad Law.

Ogdensburg Street Railway Company, approval of a change of motive power from horses to the overhead electrical trolley system.

Ogdensburg Street Railway Company, approval of an increase of capital stock from $70,000 to $150,000.

Rome City Street Railway Company; approval of a change of motive power from horses to compressed air.

Bills.

The following bills were approved:

E. C. McEntee	$50 50
Frank K. Baxter	25 25
National Express Company	18 51
American Express Company	9 81
Joseph T. Dunham & Co	17 54
Postal Telegraph Cable Company	52
Sampson, Murdock & Co	3 00
Mozzeltic Pen Company	8 00
Post-office Box rent	3 00
A. L. Judson, expense	2 00
G. A. Birch	1 30
	$139 43

The Board adjourned until July 9th, 2 P. M., at East Moriches.

NEW YORK, JUNE 18, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Residents of Westchester County against the Manhattan Elevated Railway Company, the Suburban Rapid Transit Company, and the New York, New Haven and Hartford Railroad Company. E. C. Hoyt, Richard S. Emmett, Jr., and Henry W. Harden, appeared for the complainants, and Brainard Towles for the Manhattan and Suburban companies. After taking testimony and hearing arguments, decision was reserved.

Residents of East Moriches against the Long Island Railroad Company, asking for the establishment of a station at that point. Ezra A. Tuttle appeared for the complainants, and W. J. Kelly for the company. After hearing arguments, the hearing was adjourned until Tuesday, July 9th, 2 P. M., at the Beach View House, at East Moriches.

Common Council of the city of Utica against the New York, Ontario and Western Railway Company, asking that gates be erected and maintained at the Sunset avenue crossing of that railroad in Utica. John B. Kerr appeared for the company, and Fred A. Spriggs, corporation counsel, for the city. The company agreed to erect and maintain gates as desired. The case was ordered closed.

Complaints.

A. Deimel against the Fonda, Johnstown and Gloversville Railroad Company, asking that the company be required to give the necessary accommodations for a switch to his coal sheds at Johnstown and at Gloversville. Ordered copy be sent the company, and hearing fixed for June 25th, 2 P. M., Albany.

The Watertown Paper Company against the New York Central and Hudson River Railroad Company, alleging refusal to take loaded cars for shipment on the line of the Rome, Watertown and Ogdensburg, at Watertown. Answer of the company received, stating that the cause of complaint had been removed. Ordered copy of it be sent to the complainant.

Applications.

Application of the Dunkirk and Fredonia Railroad Company for the approval of the Board of an increase of capital stock from $75,000 to $150,000. Ordered approved.

The Board adjourned until Tuesday, June 25th, 2 P. M.

ALBANY, JUNE 25, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley and Rickard. The minutes of the last meeting were read and approved.

Hearings.

A. Deimel against the Fonda, Johnstown and Gloversville Railroad Company, asking that the company be compelled to give the necessary accommodation for switches to his coal sheds at Johnstown and Gloversville. Hon. Simon Rosendale appeared for the complainant; A. D. L. Baker for the company. After hearing argument and taking evidence, the hearing was adjourned until July 16, 2 P. M., at Albany.

In the matter of the application of the Racquette River Railroad Company for a certificate under section 59 of the Railroad Law, Frank White appeared for the company; no one in opposition. After hearing argument and taking testimony, the application was ordered granted.

Application of the Ogdensburg Street Railway Company for approval of a change of motive power from horses to the overhead electrical trolley system.

R. E. Waterman appeared for the company; no one in opposition. Ordered application be granted.

Application of the Ogdensburg Street Railway Company for approval of an increase of capital stock from $70,000 to $150,000. Ordered application granted.

Application of the Rome City Railway Company for approval of a change of motive power from horses to the trolley system or a compressed air system. William P. Rayland appeared for the company; no one in opposition. The application was granted for the use of the compressed air system.

Complaints.

Elmer R. Harmon, of Chili Station, against the New York Central and Hudson River Railroad Company, relative to the difficulty of boarding trains at that station. Answer of the company received, stating that the cause of complaint has been remedied. Ordered copy sent complainant.

Charles W. Ecob against the Delaware and Hudson Canal Company, asking that the company be compelled to erect and maintain gates at the main street, day and night, every day in the week. Answer of the company received. Ordered copy be sent complainant.

Residents of Fuller's Station, Guilderland Centre, etc., against the West Shore Railroad Company, relative to train service. Answer of the company received. Ordered copy be sent complainants.

Residents of Guilford against the New York, Ontario and Western Railway Company, relative to dangerous crossings. Letter from complainants. Ordered that the company be asked what steps it has taken in the matter.

Franklin Maher against the Long Island Railroad Company, relative to payment of fare where commutation ticket had been forgotten. Letter received from complainant. Ordered that letter be written complainant as on file, and case closed.

Applications.

Application of the Buffalo and Niagara Falls Electric Railway for approval of the use of the trolley system of motive power in the operation of its railroad. Ordered hearing be set down for July 16th, 2 P. M., at Albany, and notice be advertised.

Application of the Cohoes City Railway Company for approval of the use of the trolley system of motive power in the operation of its railroad. Ordered hearing be set down for July 16th, 2 P. M., at Albany, and notice be advertised.

Orders granted.

Racquette River Railroad Company, a certificate under section 59 of the Railroad Law.

Ogdensburg Street Railway Company, approval of a change of motive power from horses to the overhead electrical trolley system.

Ogdensburg Street Railway Company, approval of an increase of capital stock from $70,000 to $150,000.

Rome City Street Railway Company; approval of a change of motive power from horses to compressed air.

Bills.

The following bills were approved:

E. C. McEntee	$50 50
Frank K. Baxter	25 25
National Express Company	18 51
American Express Company	9 81
Joseph T. Dunham & Co	17 54
Postal Telegraph Cable Company	52
Sampson, Murdock & Co	3 00
Mozzeltic Pen Company	8 00
Post-office Box rent	3 00
A. L. Judson, expense	2 00
G. A. Birch	1 30
	$139 43

The Board adjourned until July 9th, 2 P. M., at East Morichos.

EAST MORICHES, L. I., JULY 9, 1895

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin. The minutes of the last meeting were read and approved.

Hearings.

Residents of East Moriches against the Long Island Railroad Company, asking that a station be established at East Moriches. E. A. Tuttle and S. J. O'Hare appeared for the complainants; W. J. Blood, superintendent, for the company. After hearing evidence and arguments, decision was reserved.

Applications.

Application of the Terminal Railway of Buffalo for a certificate under section 59 of the Railroad Law. Ordered hearing set down for July 16th, 2 P. M., at Albany, and notice of hearing ordered advertised.

Application of the Depew and Southwestern Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for July 16th, 2 P. M., at Albany, and notice of hearing ordered advertised.

Application of the Depew and Tonawanda Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for July 16th, 2 P. M., at Albany, and notice of hearing ordered advertised.

Application of the Long Lake Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for July 16th, 2 P. M., at Albany, and notice of hearing ordered advertised. (These hearings had been fixed by the Secretary, by order of the Board, prior to the meeting of this date.)

Application of the Ithaca Street Railway Company for approval of an increase of capital stock from $250,000 to $300,000. Ordered approved.

Complaints.

Residents of Westchester County against the Manhattan Railway Company, the Suburban Rapid Transit Company and the New York, New Haven and Hartford Railroad Company. Briefs received from both sides.

Village of Sidney (by Charles W. Ecob) against the Delaware and Hudson Canal Company, asking for the maintenance of gates at all hours, at the Main street crossing. Reply of the complainants to answer of company received.

Edward H. Boughton against the Fitchburg Railroad Company, relative to a dangerous crossing at Johnsonville. Report of the Inspector as to his inspection of the crossing. Copy ordered sent the company, with instructions to reply within ten days.

The Board adjourned until Tuesday, July 16th, 2 P. M.

ALBANY, JULY 16, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Cohoes City Railway Company for permission to use the overhead electrical trolley system as motive power, George H. Fitts, counsel, appeared for the application; no one in opposition. Ordered application be granted.

Application of the Buffalo and Niagara Falls Electric Railway for permission to use the overhead electrical trolley system as motive power. W. C. Ely, counsel, appeared for the application; no one in opposition. Ordered application be granted.

Application of the Long Lake Railroad Company for a certificate under section 59 of the Railroad Law. Frank White, counsel, appeared for the application. H. L. Sprague, counsel, representing the Mohawk and Malone Railroad

Company, requested an opportunity to examine the papers, route, etc. Ordered hearing adjourned until August 6th, 2 P. M., at Albany.

Application of the Terminal Railway of Buffalo for a certificate under section 59 of the Railroad Law, H. L. Sprague, counsel, appearing for the application. Application of the Depew and Southwestern Railroad Company for a certificate under section 59 of the Railroad Law. Wilson S. Bissell and Herbert P. Bissell, counsel, appearing for the application. Both applications are for a route from Depew to Blasdell. Mr. Brownell, of Sprague, Moot, Sprague & Brownell, representing the New York, Lake Erie and Western Railroad Company, urged upon the Board that but one of the applications be granted. After hearing arguments and testimony the Board reserved decision.

Application of the Depew and Tonawanda Railroad Company for a certificate under section 59 of the Railroad Law, W. S. Bissell and Herbert P. Bissell, counsel, appearing for the application; no one in opposition. Ordered that certificate be granted.

Applications.

Application of the Utica and Herkimer Railroad Company, a street railroad, for a certificate under section 59 of the Railroad Law. Ordered hearing be set down for Tuesday, August 6th, 2 P. M., at Albany.

Application of the New York, Elmsford and White Plains Railway Company for permission to operate its railroad by the overhead electrical trolley system. Ordered hearing set down for August 6th, 2 P. M., at Albany, and notice be advertised.

Complaints.

Elmer R. Harmon, of Chili Station, against the New York Central and Hudson River Railroad Company, relative to the distance between the ground and car steps of trains at that station. Letter received from Mr. Harmon, stating that the difficulty has only been partially remedied. Ordered copy be sent the company.

A. Deimel against the Fonda, Johnstown and Gloversville Railroad Company, asking for switch facilities for coal business at Johnstown and at Gloversville, hearing on which was set down for this date, adjourned until August 6th, 2 P. M., at Albany.

Residents of Guilford against the New York, Ontario and Western Railway Company, relative to dangerous crossing at that place. Letter received from B. A. Fleming, one of the complainants, stating that the company has done nothing to remedy the evil complained of. Ordered that letter be written the company to answer at once what it proposes to do.

Lee M. Friedman, of Boston, against the New York Central and Hudson River Railroad Company, relative to charge for transportation of a bicycle. Ordered letter be written the complainant as on file.

E. H. Boughton against the Fitchburg Railroad Company, as to dangerous crossing at Johnsonville. Reply of the company received to the report of the Inspector of this Board. Further report of the Inspector of the Board ordered sent the company.

Trustees of the village of Boonville against the Utica and Black River Division of the New York Central and Hudson River Railroad Company, as to dangerous crossing. Ordered complainants be written that the matter may be taken to the courts under section 33 of the Railroad Law.

Orders.

The following orders were granted:

Cohoes City Railway Company, for permission to use the overhead electrical trolley system as motive power.

Buffalo and Niagara Falls Electric Railway, for permission to use the overhead electrical trolley system as motive power.

Depew and Tonawanda Railroad Company, for a certificate under section 59 of the Railroad Law.

On motion it was ordered that the Secretary notify the Comptroller that the salary of George L. Lewis has been reduced from $1,500 to $1,200 a year until otherwise ordered. Also, that the Secretary notify the Comptroller that the salary of John J. Farley has been increased from $40 to $50 a month; both changes taking effect on the first of July.

Bills.

The following bills were approved:

Weed Parsons Printing Company	$212 67
" " " "	156 26
Julius Bien & Co	30 00
Stuart G. Speir	1 00
Railroad Gazette	4 20
Sampson, Murdock & Co	7 50
American Express Company	10 12
National Express Company	8 50
Western Union Telegraph Company	4 53
Hudson River Telephone Company	15 89
	$450 67

Special Appropriation		$1,000 00
A. B. Van Gaasbeek	$450 61	
W. M. Whitney & Co	93 03	
B. W. Wooster Furniture Company	50 00	
Hudson River Telephone Company	75 00	
United Typewriter Supplies Company	72 50	
Frederick Easton, superintendent	257 50	998 64
Balance		$1 36

The Board adjourned until Tuesday, August 6th, 2 P. M.

ALBANY, AUGUST 6, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the Long Lake Railroad Company for a certificate under section 59 of the Railroad Law, adjourned from July 16th; John L. Henning and John P. Badger for the applicant; Hamilton Harris, opposed. After hearing arguments and evidence, the hearing was further adjourned until Monday, September 9th, at 2 P. M.

A. Deimel against the Fonda, Johnstown and Gloversville Railroad Company, asking for switch facilities to coal yards at Johnstown and Gloversville. Albert Hessberg, of Rosendale & Hessberg, for the complainant; A. D. L. Baker for the company. Ordered that the complainant be given switch facilities over the Burr switch at Gloversville; and the matter of the Johnstown switch be adjourned until September 9th, to see if an arrangement can be made for the use of the Stewart switch at Johnstown.

Application of the Utica and Herkimer Street Railway Company for a certificate under section 59 of the Railroad Law. Proofs were presented and evidence heard, and the application was ordered granted, on the express understanding that there is an avoidance of all grade crossings of main line of their railroad.

Application of the Buffalo and Niagara Falls Electric Railway for a modification of the orders allowing the use of the overhead electrical trolley system on the Buffalo and Niagara Falls Electric Railway, dated July 16, 1895, and on the Buffalo and Tonawanda Electric Railway, dated May 1st, 1893. Ordered modifications in the orders be made as shown by order on file.

The hearing on the application of the New York, Elmsford and White Plains Railway Company for approval of the use of the overhead electrical trolley system in the operation of its railroad, was postponed until Monday, September 9th, at the request of the company.

Complaints.

Residents of Guilford against the New York, Ontario and Western Railway Company, relative to condition of crossings. Letters received from the president and the general manager of the company, stating that negotiations are under way looking to the doing away of the cause of the complaint. A copy of the general manager's letter was sent to the complainants.

Durkee & Montayne, of Saratoga Springs, against the Delaware and Hudson Canal Company, asking that the company be compelled to change the switch leading into the coal yard of the firm, from the south to the north. Ordered copy sent company.

Residents of Westchester against the Manhattan Railway, New York, New Haven and Hartford Railroad. Reply of the New Haven Company to inquiry of Board relative to charge of five cents from Willis avenue to One Hundred and Twenty-ninth street, New York city, ordered carried on file.

Applications.

Application of the Niagara Junction Railway Company for temporary relief in the matter of the equipment of freight cars of that company with automatic brakes. Ordered application be granted.

Orders.

A. Deimel against the Fonda, Johnstown and Gloversville Railroad Company. Ordered that the complainant be given switch facilities over the Burr switch at Gloversville; and that the matter of the Johnstown switch be adjourned until September 9th, to see if an arrangement can be made for the use of the Stewart switch at Johnstown.

Utica and Herkimer Street Railway Company; certificate under section 59 of the Railroad Law; granted.

Buffalo and Niagara Falls Electric Railway; modification of orders; granted.

Niagara Junction Railway Company; temporary relief in the matter of equipping freight cars with automatic brakes; granted.

The Terminal Railway of Buffalo for a certificate under section 59 of the Railroad Law; granted.

The Depew and Southwestern Railroad Company for a certificate under section 59 of the Railroad Law; denied.

Extract from Minutes.

ALBANY, AUGUST 6, 1895.

Wilson S. Bissell—Preliminary to taking up this case on its merits, I desire to call the attention of the Commission to the first decision made in this case, that was, that the application of the company I represent, and that of another company should be heard together, and in making that decision——

Commissioner Beardsley—Jointly, that was the understanding.

Mr. Bissell—Yes, sir. In making that decision, the President of the Commission observed that the Commission had nothing before it to show any priority of dates.

Commissioner Beardsley—That is, as to the applications that came to the Board; they both came the same day.

Mr. Bissell—I remarked that there was a notice on the file, but I did not interrupt the proceedings further than to make that statement.

Commissioner Beardsley—There was such a statement filed there; it was called to my attention afterwards, that is a part of the record; there was such a paper that had not been called to my attention at the time I made that remark.

Mr. Bissell—That being so, I wish to call the attention of the Commission to this fact, that the whole of the record on that hearing fails to disclose any fact or any argument in opposition to our company, other than must be implied from the fact that the people who organized the Terminal Company desired it;

therefore, we insist at this time we have a right to the issuance of a certificate under section 59, as a matter of right.

(Mr. Bissell handed a paper to the Board.)

The Chairman submitted a decision and opinion in the matter of the application of the Terminal Railway of Buffalo, and the Depew and Southwestern Railroad Company for a certificate under section 59 of the Railroad Law, which the Secretary read.

Mr. Bissell—I desire in that connection to read from the record of this Board.

Commissioner Beardsley—Is it to be understood in disposing of this case that one represents one interest and one another?

Mr. H. P. Bissell—Our company is an independent company; certain men who own stock in the Lehigh Valley and others, have come together and have formed this corporation, but it is not a Lehigh Valley corporation. The Depew and Tonawanda corporation is a spur of the Lehigh Valley, and is projected by it.

Mr. Sprague—The same statement would bear in our own case; while it is true that some of the gentlemen connected with the New York Central are largely interested in this Terminal Road, yet it is not a New York Central enterprise.

Commissioner Beardsley—Do you wish to oppose the Depew and Tonawanda application, Mr. Sprague?

Mr. Sprague—No, I will not oppose that.

Now, in that connection, how can this Board decide that it is a New York Central?

Commissioner Beardsley—This is not a hearing.

Mr. Bissell—I desire simply to enter a protest against this decision.

Commissioner Beardsley—This has not been adopted yet, and you are interrupting the regular proceedings of the Board.

Mr. Bissell—I beg your pardon; if you will give me the right to make a protest.

Commissioner Beardsley—What is the pleasure of the Board on the report?

Commissioner Rickard—I move it be adopted.

Commissioner Chapin—Shouldn't you make two motions? The report calls for two decisions, and I think I should like to vote "No" on the two of them. I don't follow the beginning of the reasoning that it is necessary to sacrifice one of these companies for the other. It seems to me that you should first vote on the question of rejecting the one you first mean to reject.

Commissioner Beardsley—The question is upon the adoption of the report.

Commissioner Chapin—Yes, but there are two reports.

Commissioner Beardsley—I will put the question as you desire it.

Commissioner Chapin—I should like to vote "No" on the propositin, if it takes the form of a motion, that the public convenience and necessity do not require the construction of the proposed road of the Depew and Southwestern.

Commissioner Beardsley—Suppose you put it that way.

Commissioner Chapin—The motion, as I understand it, is to adopt the report.

Commissioner Beardsley—Put it this way: First, that Commissioner Rickard moves that the report as presented by Commissioner Beardsley be adopted, and vote on that, stating your objections, and then we will vote first on the proposition that the application of the Terminal Company be granted, and then that the application of the Depew and Southwestern be granted. That will cover all your objections, won't it?

Commissioner Chapin—Yes, if it is understood that my objection to the report is, first, to the theory of the report that it is necessary to sacrifice either one of these companies to the other; I should vote against the report on that ground, regardless of what these two later propositions were; then, if you do decide that you must sacrifice one of them to the other, I should vote against the proposition to sacrifice the Depew and Southwestern, which, I suppose, would be the next proposition.

Commissioner Beardsley—First, the motion is that the report as submitted by Commissioner Beardsley be adopted. All in favor of that resolution will signify it by saying "aye." The clerk will call the roll.

Secretary DeFreest called the roll as follows:

Commissioner Rickard—Aye.

Commissioner Chapin.—Commissioner Chapin—I vote no.

Commissioner Beardsley.—Commissioner Beardsley—Record me in the affirmative.

Commissioner Beardsley—The second resolution is that it is moved that the application of the Terminal Company of Buffalo be granted.

Mr. Bissell—Now, Mr. Commissioner, I think perhaps what I am about to observe would be pertinent at this time if I might be allowed to suggest it. The point is this, that the report that you are about to vote on raises a theory that the counsel did not, that is news to us, that the counsel did not only not recognize, but repudiated.

Commissioner Beardsley—That is a question you can raise on appeal.

Mr. Bissell—If I could have dreamed that the New York Central was a party in interest, instead of others, as the counsel stated, I should have asked permission to show what facilities the New York Central already enjoys at that point; I should have shown that they have a double-track complete belt line in Buffalo already of their own, and that they would not need this in opposition, and that it was against public interest to have it. I would have shown what would be the effect of getting out the coal tonnage that would go completely around the city and now I think it is pertinent to bring it up for this purpose. I regard this matter, I assume that it must be, of greater importance than any question that is pending before this Board under section 59, and I would suggest that it is of sufficiently great importance either to give us a further hearing on this question of the New York Central interest, that being a new interest in this case ——

Commissioner Beardsley—Your appearance here is entirely irregular now, Mr. Bissell, as the opportunity to ask for it would not have occurred except by the courtesy of the Board. The Board is simply disposing of its routine business; I do not understand that you are here at all now to ask an opportunity to ask for such a thing.

Mr. Bissell—Can't I be heard?

Commissioner Beardsley—You are being heard.

Mr. Bissell—Might I ask a question? Would the Commission be willing to go on the premises and examine this important subject before filing any decision?

Commissioner Beardsley—The report has been adopted. We are going on to pass on these other two motions, sir.

Mr. Bissell—I claim the right to protest against any decision here; I claim the right as a citizen. I claim that I have as many rights as any other citizen of this State; I claim that the fifteen men who signed that paper have as many rights before the law as any other fifteen men, and included in our rights is the right to be heard before public tribunals. We had certain rights, certain vested, chartered rights, and the intention is to take them away from us, and I desire to enter a protest against it.

Commissioner Beardsley—Your protest has been received.

Mr. Bissell—I desire to, in view of the importance of this case. I want the Commission not to file their decision to-day, but to examine the premises and examine the questions raised.

Commissioner Rickard—I move that the application of the Terminal Com- be granted.

Commissioner Beardsley—The question is on the motion of Commissioner Rickard, that the application of the Terminal Company of Buffalo be granted. All in favor of that resolution will signify it by saying "aye." The clerk will call the roll.

Secretary DeFreest called the roll as follows:

Mr. Chapin—No.

Mr. Rickard—Aye.

Mr. Beardsley—Aye.

Commissioner Beardsley—The motion is adopted.

Commissioner Rickard—I move that the application of the Southwestern Company be denied.

Commissioner Beardsley—Mr. Rickard moves that the application of the Depew and Southwestern Railroad Company be denied. All in favor of that resolution will signify it by saying "aye." The clerk will call the roll.

Secretary DeFreest called the roll as follows:

Mr. Chapin—No.

Mr. Rickard—Aye.

Mr. Beardsley—Aye.

Commissioner Beardsley—The motion is adopted.

Commissioner Chapin—I suppose I can file a memorandum if I wish to; I don't know that I wish to.

Bills.

The following bills were ordered approved:

James B. Lyon	$11 50
Frank K. Baxter	28 81
National Express Company	12 70
National Press Intelligence Company	1 75
Western Union Telegraph Company	7 68
Hudson River Telephone Company	17 99
	$80 43

The Board adjourned until Monday, September 9th, at 2 P. M.

ALBANY, SEPTEMBER 9, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the New York, Elmsford and White Plains Railway Company for the approval of the Board of the operation of its railroad by the overhead electrical trolley system. A letter was received from the counsel of the company, asking that if he be not present at the hearing an adjournment be had. The counsel was not present. Charles F. MacLean appeared in person, and Messrs. Purdy and Squire by communications, in opposition. The hearing was adjourned until Tuesday, October 1st, at 2 P. M.

Application of the Buffalo, Gardenville and Ebenezer Electric Railroad Company for a certificate under section 59 of the Railroad Law. D. P. Hodson, counsel, and Charles Schoepflin, president, appeared for the company; no one in opposition. Ordered that certificate be issued.

Application of the Long Lake Railroad Company for a certificate under section 59 of the Railroad Law, adjourned from August 6th. John L. Henning and John P. Badger for the applicant; Hamilton Harris and D. G. Griffin opposed. After hearing arguments and evidence the Board took the papers and reserved decision.

Durkee & Montanye, coal dealers, of Saratoga Springs, against the Delaware and Hudson Canal Company, asking that the switch leading to their coal trestle be changed. C. D. Hammond, superintendent, appeared for the company; no appearance was made on the part of the complainants.

Application of the New York and Pennsylvania Railroad Company for a certificate under section 59 of the Railroad Law. I. W. Near, counsel, for the application; James H. Stevens, counsel, representing the New York, Lake Erie and Western Railroad Company, appeared, asking that the precise terminus of the railroad, near Canisteo, be fixed.

Recess until Tuesday, September 10th, 10 A. M.

ALBANY, SEPTEMBER 10, 1895.

The Board met at 10 A. M. All present.

The matter of the application of the New York and Pennsylvania Railroad Company for a certificate under section 59 of the Railroad Law was resumed. After hearing arguments and evidence the matter was adjourned to October 15th, 2 P. M., to give an opportunity for the company to file amended articles of association, setting forth exactly its termini.

Residents of Cherry Creek against the New York, Lake Erie and Western Railroad Company, asking that the company be compelled to build a station at that place. Ordered that a hearing be held at Cherry Creek, by the Secretary.

Charles W. Ecob, Street Commissioner, village of Sydney, against the Delaware and Hudson Canal Company, asking that gates be erected at the crossing of the Main street, and that a man be stationed to operate them day and night, including Sundays. A hearing in this matter was fixed for September 9th, but at the request of the counsel for company was adjourned. Ordered hearing be set down for October 1st, 2 P. M.

A. Deimel against the Fonda, Johnstown and Gloversville Railroad Company, asking for switch facilities at Johnstown and Gloversville. Information was received from complainants that the matter was in course of adjustment between them and the company, and asking that the matter be indefinitely postponed. Ordered that the matter be indefinitely postponed.

Application of the Auburn Inter-Urban Electric Railroad Company for a certificate under section 59 of the Railroad Law. John D. Teller, counsel, appeared for the company. A letter was received from Messrs. Taber & Brainard, of Auburn, relative to effect of certificate as to crossing of steam railroads, under chapter 239 of the Laws of 1893. A dispatch was received from W. P. Goodelle, of Syracuse, stating that he wished to be heard in behalf of the Auburn City Railway in opposition to granting the application, and asking for a postponement. Ordered that the application be granted, with the following condition:

But the foregoing determination shall in nowise be considered as and for the written consent of the State Railroad Commissioners of the State of New York. necessary under section 2 of chapter 239 of the Laws of 1893.

Complaints.

Richmond & James against the Fitchburg Railroad Company, asking for a proper station at Hoosick. Letter received from complainants, stating that the order of the Board, that a new station be erected, has not been obeyed. Ordered that the Inspector make an inspection, and if the inspection sustains the statements made in complainants' letter, that the matter be turned over to the Attorney-General.

Edward H. Boughton against the Fitchburg Railroad Company, as to dangerous crossings in the village of Johnsonville. Letters from Mr. Boughton and from H. S. Marcy, president Fitchburg Railroad Company, were submitted to the Board, the letter of Mr. Marcy stating that "the superintendent has arranged to have the crossing near the station guarded when freight trains are switching there." Copy of this letter was sent Mr. Boughton.

John N. Stoddard and Samuel H. Stoddard against the New York Central and Hudson River Railroad Company, relative to fences and farm crossings on their property along the Rome, Watertown and Ogdensburg Division. Copy sent the company, with instructions to answer.

E. R. Reynolds, general manager Long Island Railroad, against the Nassau Electric Railroad Company, alleging that the cars of the latter company have broken through the gates at the crossing of the Long Island Road at Rockaway avenue in face of approaching trains. A copy was transmitted to the Nassau Company and answer received, alleging that the accident referred to was the fault of the Long Island Railroad watchman, but that extra precaution had been taken by the Nassau Company to prevent a repetition of the accident.

E. C. M. Rand against the New York, Lake Erie and Western Railroad Company, complaining of dangerous crossing at Blauvelt, N. Y. Copy of complaint sent the company.

F. J. Davis, of Hooper, against the New York, Lake Erie and Western Railroad Company, alleging poor condition of fences. Copy sent the company and answer received that the fences referred to will be put in proper shape. Copy of answer sent complainant, with the request that the Board be informed if the fences are not put in proper shape within a reasonable time.

Ezra Orcutt against the New York, Lake Erie and Western Railroad Company, alleging poor condition of fences along his property. Copy sent the company and answer received that the fences will be put in proper condition.

Copy sent complainant, with the request that he inform the Board if the repairing is not done in accordance with the promise of the company.

E. J. Shriver against the Staten Island Rapid Transit Railroad, relative to alleged excessive fare. Copy sent the company and answer received. Ordered that the company be written that the Board is of the opinion that the practice complained of is not in accordance with law, and that the complainant be sent a copy of this letter.

Messrs. Chapin & Co., of Buffalo, against the New York Central and Hudson River Railroad Company, the New York, Lake Erie and Western Railroad Company and the Delaware, Lackawanna and Western Railroad Company, relative to mileage books. Answers received from the Delaware, Lackawanna and Western Railroad Company and the New York, Lake Erie and Western Railroad Company. Copies of answers sent complainants. Letter received from complainants withdrawing complaint so far as the Delaware, Lackawanna and Western and the New York, Lake Erie and Western are concerned. Answer received from the New York Central and Hudson River Railroad Company; copy sent complainants; reply received from complainants and copy sent the New York Central and Hudson River Railroad Company.

Applications.

Application of the Susquehanna Valley Traction Company for approval of an increase of capital stock from $20,000 to $50,000, *nunc pro tunc*. A. C. Wade, attorney for petitioner. It appearing from the papers filed that such increase is a proper one, it is ordered that the approval of the Board be granted of an increase of the capital stock of the Susquehanna Valley Traction Company from $20,000 to $50,000, *nunc pro tunc*, September 27, 1894, and that such approval be endorsed on the certificates of the stockholders' meeting, as required by the Stock Corporation Law.

Application of the Long Island Railroad Company for permission to discontinue the full-stop and crossing on signal at the crossing of the tracks of the Brooklyn, Bath and West End Railroad Company at Bath Junction. Ordered the company be written that the Board would approve of the application if an interlocking switch and signal apparatus is adopted and put in operation at the crossing.

Application of the Buffalo, Gardenville and Ebenezer Electric Railroad Company for approval of the operation of its railroad by the overhead electrical trolley system. Ordered hearing set down for Tuesday, October 1st, 2 P. M.

Application of the LeRoy and Northern Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for Tuesday, October 1st, 2 P. M., and notice be advertised.

Orders.

Buffalo, Gardenville and Ebenezer Electric Railroad Company for a certificate under section 59 of the Railroad Law. Granted.

Durkee & Montayne against the Delaware and Hudson Canal Company. Ordered, in view of the decision of the Board, relative to the switch in question, dated May 26, 1886, that the complaint be dismissed on its merits.

Auburn Inter-Urban Electric Railroad Company for a certificate under section 59 of the Railroad Law. Granted with a condition as shown heretofore.

Richmond & James against the Fitchburg Railroad Company. Ordered that the Inspector make an inspection, and if the inspection sustains the statements made in complainants' letter, that the matter be turned over to the Attorney-General.

Application of Long Island Railroad Company for consent to change location of its station at Farmingdale. Ordered granted.

Residents of Westchester County against the Manhattan, the Suburban, and the New York, New Haven and Hartford Railroad Companies. Ordered supplemental opinion issued, as shown by copy on file.

Susquehanna Valley Traction Company for approval of an increase of capital stock from $20,000 to $50,000. Ordered approved, *nunc pro tunc*, September 27, 1894.

Bills.

The following bills were approved:

American Express Company	$7 61
Frank K. Baxter	29 15
National Express Company	3 65
Joseph McDonough	6 40
Hudson River Telephone Company	23 04
Western Union Telegraph Company	9 54
E. C. McEntee, expenses	20 75
American Express Company	3 75
	$103 89

The Board adjourned to Tuesday, October 1st, 2 P. M.

ALBANY, OCTOBER 1, 1895.

The Board met pursuant to adjournment. Present, Commissioners Beardsley, Rickard and Chapin.

The minutes of the last meeting were read and approved.

Hearings.

Application of the New York, Elmsford and White Plains Railway Company for the approval of the Board of the operation of its railroad by the overhead electrical trolley system. John H. Miller, counsel, appeared for the company; Charles F. MacLean, property owner, in opposition, and Hamilton Harris, representing the New York Central and Hudson River Railroad Company, in opposition. Adjourned until the 15th of October at 2 P. M.

Residents of Fuller's Station, etc., against the West Shore Railroad, asking for better train service. R. H. McCormack appeared for the complainants, H. E. Kinney for the company. It was stipulated by counsel that "the petitioners ask that the train service on the West Shore past Fuller's station be restored, as it was in the month of November, 1893, prior to November 19." Adjourned until October 15.

Charles W. Ecob (village of Sidney) against the Delaware and Hudson Canal Company, asking that gates and a flagman be maintained at all times at the Main street crossing in the village of Sidney. A. F. Phelps and Charles W. Ecob appeared for complainants. L. E. Carr, counsel, and C. D. Hammond, superintendent, appeared for the company. Adjourned until October 22, 2 P. M. Ordered that in the meantime the Inspector inspect the crossing. The complainants are to have the crossing watched for one or two days and submit affidavit of the number of vehicles, pedestrians and engines and trains passing over it.

Application of the Buffalo, Gardenville and Ebenezer Railway Company for permission to operate its railroad by the overhead electrical trolley system. No appearance in opposition. Ordered granted.

Application of the Leroy and Northern Railroad Company for a certificate under section 59 of the Railroad Law. M. H. Briggs, counsel, appeared for the company. George F. Brownell, of Sprague, Moot, Sprague & Brownell, appeared for the New York, Lake Erie and Western Railroad in opposition. Adjourned until October 16 at LeRoy.

Complaints.

Residents of Cherry Creek against the New York, Lake Erie and Western Railroad Company, asking for a new station building at that point. Letter received from counsel for the company, stating that authority had been given the general superintendent of the road to build a new station, that plans were being prepared, and that it is expected to proceed with the work without delay. Ordered complainants be notified.

Richmond & James against the Fitchburg Railroad Company, asking for a proper station at Hoosick. The Secretary reported that the company had been notified that the matter would be turned over to the Attorney-General unless

the recommendation of the Board is complied with, and that a letter had been received from the president of the company explaining the delay, and stating that the station is now under contract, to be finished in November. Ordered copy of this letter be sent complainants.

E. C. M. Rand against the New York, Lake Erie and Western Railroad Company, complaining of a dangerous crossing at Blauvelt, N. Y. Answer of the company received and copy transmitted to complainant. No reply from complainant yet received.

Retsof Mining Company against the Genesee and Wyoming Valley Railroad Company protesting against the proposed removal of an overhead crossing bridge. Copy sent the company.

Applications.

Application of Wanton S. Webb, relative to oil stove and heating apparatus in the car "Florida's Rolling Exposition." Ordered that permission be granted to use the oil stove, and Mr. Webb be written as shown by letter on file.

Application of the North Mount Vernon Railway Company for increase of capital stock from $20,000 to $250,000.

Application of the Hudson River and Washington County Midland Railroad Company for a certificate under section 59 of the Railroad Law. Ordered hearing set down for October 22, 2 P. M., and notice be advertised.

Application of the Greenwich and Schuylerville Electric Railroad for a certificate under section 59 of the Railroad Law. Ordered hearing set down for October 22, 2 P. M., and notice be advertised.

Orders.

Buffalo, Gardenville and Ebenezer Railway Company for approval of the operation of its railroad by the overhead electrical trolley system. Ordered granted.

Application of Wanton S. Webb. Ordered granted as to use of oil stove.

The Secretary reported that the Inspector had reported that the railroad of the Central New York and Western Railroad Company was in very bad condition, and that on the advice of Commissioner Rickard the company was immediately notified to put the road in proper condition or to suspend operations. Further correspondence was had with the company, and it had been decided that on October 9 the Inspector of this Board, the engineer of the company, and C. F. Stowell, an expert bridge engineer, employed by this Board, should make an inspection of the road, and decide upon betterments which will make it safe to operate.

Commissioner Rickard submitted a report in the matter of the collisions on the New York and Sea Beach Railroad September 4. Adopted and ordered issued.

The Secretary was authorized to employ necessary additional service in copying reports, at an expense not to exceed $150.

Bills.

The following bills were approved:

Weed Parsons Printing Co	$100 15
Frank K. Baxter	23 75
O. B. Ireland	6 48
G. A. Birch	4 70
	$135 08

The Board adjourned until Tuesday, October 15, at 2 P. M.

NEW COMPANIES.

Formed under the Laws of the State of New York by filing articles of association from June 30, 1895.

SURFACE STEAM ROADS.

NAME OF COMPANY.	County in which operated.	Date when articles filed.	Length of road, Miles.	Capital Stock.
The Amsterdam, Johnstown and Gloversville Railroad Company	Montgomery and Fulton	July 12, 1894	11	$400,000
Waddington, Canton and Southern Railroad Company	St. Lawrence	Aug. 7, 1894	27 3/5	500,000
The Jamestown and Lake Erie Railway Company (formerly Chautauqua Lake Railway Company)	.....	Oct. 11, 1894	.....	250,000
The Batavia and Northern Railroad Company	Orleans and Genesee	Dec. 4, 1894	18	325,000
Hudson River and Cornell Railroad Company	Westchester	Apr. 16, 1895	10	100,000
The Gloversville and Broadalbin Railroad Company	Fulton	Apr. 25, 1895	6	60,000
Racquette River Railroad Company	Franklin	Apr. 25, 1895	10	100,000
Le Roy and Northern Railroad pany (operated in part by electricity)	Genesee	May 2, 1895	3	50,000
The Rochester and Southern Railroad Company	Monroe and Livingston	May 7, 1895	14	500,000
The Depew and Southwestern Railroad Company	Erie	June 15, 1895	10	500,000
The Depew and Tonawanda Railroad Company	Erie	June 15, 1895	10	500,000
The Terminal Railway of Buffalo	Erie	June 17, 1895	11	500,000
Long Lake Railroad Company	Franklin and Hamilton	July 3, 1895	10	100,000
The New York and Pennsylvania Railroad Company	Allegany and Steuben	July 22, 1895	30	300,000
The Kings, Queens and Suffolks Railroad Company (narrow gauge)	Queens	Aug. 16, 1895	9	300,000
Livonia and Lake Conesus Railroad Company	Livingston	Aug. 28, 1895	6	60,000
The New England Railroad Company (organized under laws of Massachusetts and Connecticut)	.....	Aug. 31, 1895	.....	25,000,000
The Hudson River and Washington County Midland Railroad Company	Saratoga and Washington	Sept. 6, 1895	7	125,000
The Rondout and Southwestern Railway Company	Sullivan and Ulster	Sept. 21, 1895	34	500,000

SURFACE STREET ROADS.

The North and South Electric Railway	Westchester	July 9, 1894	5	50,000
The Yonkers Electric Railway Company	Westchester	July 26, 1894	10	1,000,000
The Cohoes City Railway Company	Albany	July 30, 1894	5	50,000
The Lockport City and Olcott Electric Railroad Company	Niagara	Aug 18, 1894	20	200,000
The Hempstead Traction Company	Queens	Aug. 30, 1894	4	50,000
Syracuse and East Side Railway Company	Onondaga	Aug. 30, 1894	10	200,000

NEW COMPANIES.—*Continued.*

NAME OF COMPANY.	County in which operated.	Date when articles filed.	Length of road, Miles.	Capital Stock.
Port Chester, Rye and Mamaroneck Electric Railway Company	Westchester	Sept. 14, 1894	9	$150,000
Newtown Railway Company	Queens	Sept. 19, 1894	.....	150,000
Old Forge Railroad Company	Herkimer	Sept. 22, 1894	2	20,000
Peekskill, State Camp and Mohegan Railroad Company	Westchester	Oct, 8, 1894	4	175,000
The Peekskill and Cortland Electric Railway Company	Westchester	Oct. 9, 1894	4	150,000
Walden and Orange Lake Railroad Company	Orange	Oct. 15, 1894	5 6/10	100,000
Binghamton, Lestershire and Union Railroad Company	Broome	Oct. 18, 1894	6	100,000
The Brooklyn, Newtown and Bowery Bay Railroad Company	Queens	Oct. 19, 1894	6 1/2	100,000
Waterloo, Seneca Falls and Cayuga Lake Railway	Seneca	Nov. 24, 1894	4	150,000
Corning and Painted Post Street Railway	Steuben	Dec. 3, 1894	5	100,000
The International and Oak Orchard Harbor Railroad Company	Orleans	Dec. 4, 1894	10	175,000
Staten Island Electric Railroad Company	Richmond	Dec. 11, 1894	22	1,250,000
The Corning Traction Company	Steuben	Dec. 17, 1894	4	40,000
The River and Valley Traction Company	Rockland	Dec. 24, 1894	1	3,000
Flushing and College Point Electric Railway Company	Queens	Dec. 26, 1894	4	125,000
Staten Island Interior Railroad Company	Richmond	Dec. 27, 1894	15	300,000
Nyack Traction Company	Rockland	Jan. 3, 1895	7 1/2	75,000
Staten Island Terminal Electric Railroad Company	Richmond	Jan. 17, 1895	3	50,000
Westchester County Central Electric Railway	Westchester	Jan. 24, 1895	3	75,000
The People's Traction Company of the City of New York	New York	Jan. 30, 1895	20 1/2	1,500,000
Ballston Electric Railroad Company	Saratoga	Jan. 31, 1895	10	200,000
Waterport Electric Light and Power and Railroad Company (Beecher single rail)	Orleans	Feb. 1, 1895	4	40,000
Frankfort and Utica Street Railway Company	Herkimer	Feb. 2, 1895	7	70,000
Little Falls and Herkimer Street Railway Company	Herkimer	Feb. 6, 1895	8	80,000
The New York, Westchester and Connecticut Traction Company	Westchester	Feb. 12, 1895	16	600,000
The Batavia Street Railroad Company	Genesee	Feb. 26, 1895	7 1/2	75,000
Dexter and Brownville Street Railway Company	Jefferson	Feb. 27, 1895	4	40,000
The Fishkill Electric Railway Company	Dutchess	Mar. 12, 1895	4 1/2	50,000
Hamburg Railway Company	Erie	Mar. 13, 1895	1	10,000
Rondout and Eddyville Railway Company	Ulster	Apr. 3, 1895	3	30,000
Middletown-Bloomingburgh Electric Railway Company	Orange and Sullivan	Apr. 10, 1895	10	200,000
The Westchester and Williamsbridge Traction Company	Westchester	Apr. 24, 1895	5 1/4	60,000
The Edenwald Street Railway Company	Westchester	May 4, 1895	3	50,000
The Watkins and Havana Railroad Company	Schuyler	May 9, 1895	5	50,000
Syracuse and Oneida Lake Electric Railway Company	Onondaga	May 21, 1895	12	300,000
Little Falls Street Railway	Herkimer	June 7, 1895	7	75,000
Buffalo, Gardenville and Ebenezer Railway	Erie	June 19, 1895	4	40,000
The Utica and Herkimer Street Railway Company	Oneida	June 19, 1895	3	30,000

NEW COMPANIES.—*Continued.*

NAME OF COMPANY.	County in which operated	Date when articles filed.	Length of road, Miles.	Capital Stock.
Syracuse and Suburban Railroad Company	Onondaga	June 29, 1895	12	$250,000
Greenwich and Schuylerville Electric Railroad	Washington and Saratoga	July 1, 1895	6	200,000
Albany and Suburban Railway	Albany and Rensselaer	July 2, 1895	12	200,000
Little Falls and Richfield Springs Railway	Herkimer and Otsego	July 22, 1895	18	200,000
Richfield Springs and Schuyler Lake Railway	Otsego	July 22, 1895	1	20,000
Albany, Greenbush and Bath Railway	Rensselaer and Albany	July 30, 1895	6	150,000
Auburn, Inter-Urban Electric Railroad Company	Cayuga and Onondaga	Aug. 5, 1895	25	250,000
The Port Chester, Rye and White Plains Electric Railway Company	Westchester	Aug. 9, 1895	5	150,000
Columbia County Electric Railway Company	Columbia	Aug. 26, 1895	15	400,000
The Lewiston and Youngstown Frontier Railway Company	Niagara	Aug. 29, 1895	6	60,000
Southern New York Railway Company	Westchester	Sept. 4, 1895	1	10,000
Ulster County Electric Railroad Company	Ulster	Sept. 9, 1895	7	100,000
The Chittenango and White Sulphur Springs Railway Company	Madison	Sept. 20, 1895	5 7/8	150,000
North New York City Traction Company	New York	Sept. 20, 1895	20 1/2	210,000
Irondequoit and Lake Shore Electric Railroad Company	Monroe	Sept. 30, 1895	6 1/2	100,000
UNDERGROUND.				
The New York and Brooklyn Tunnel Company	New York and Kings	March 6, 1895	2	100,000

COMPANIES REORGANIZED.

"Chautauqua Lake Railway Company," sold and reorganized as
"THE JAMESTOWN AND LAKE ERIE RAILWAY COMPANY."
Capital stock, $250,000.
Articles of incorporation filed in the office of Secretary of State October 11, 1894.

"Schenectady Street Railway Company," sold and reorganized as
"SCHENECTADY RAILWAY COMPANY."
Capital stock, $300,000.
Articles of incorporation filed in the office of Secretary of State February 12, 1895.

"Western New York and Pennsylvania Railroad Company," sold and reorganized as
"WESTERN NEW YORK RAILWAY COMPANY."
Capital stock, $10,000,000.
Articles of incorporation filed in the office of Secretary of State February 28, 1895.

"Grand View Beach Railroad Company," sold and reorganized as
"ROCHESTER, CHARLOTTE AND MANITOU RAILROAD COMPANY."
Capital stock, $100,000.
Articles of incorporation filed in the office of Secretary of State March 21, 1895.

"Northern Adirondack Railroad Company," sold and reorganized as
"NORTHERN NEW YORK RAILROAD COMPANY."
Capital stock, $1,000,000.
Articles of incorporation filed in the office of Secretary of State May 27, 1895.

"Buffalo, North Main Street and Tonawanda Electric Railroad Company," sold and reorganized as
"BUFFALO, NORTH MAIN STREET AND TONAWANDA RAILWAY COMPANY."
Capital stock, $75,000.
Articles of incorporation filed in the office of Secretary of State June 4, 1895.

"The Southern Central Railroad Company," sold and reorganized as
"LEHIGH AND NEW YORK RAILROAD COMPANY."
Capital stock, $4,142,188.
Articles of incorporation filed in the office of Secretary of State August 24, 1895.

COMPANIES CONSOLIDATED.

The following corporations were consolidated and name changed during the year, as follows, viz.:

STREET SURFACE ROADS.

NAME OF OLD COMPANIES.	Name of present company.	Certificate filed.	Capital Stock.
The Susquehanna Valley Electric Traction Company; the Waverly, Sayre and Athens Electric Traction Company (Penn.)	The Waverly, Sayre and Athens Traction Company	Dec. 19, 1894.	$200,000
Mohawk and Ilion Horse Railroad Company; the Herkimer and Mohawk Street Railroad Company; Frankfort and Ilion Railroad Company	Herkimer, Mohawk, Ilion and Frankfort Electric Railway	Feb. 5, 1895.	55,000
Geneva Surface Railway Company; Geneva and Waterloo Railway Company; Waterloo, Seneca Falls and Cayuga Lake Railway; the Seneca Electric Railway	Geneva, Waterloo, Seneca Falls and Cayuga Lake Traction Company	March 27, 1895.	450,000
Buffalo and Niagara Falls Electric Railway; Buffalo and Tonawanda Electric Railway	Buffalo and Niagara Falls Electric Railway	May 28, 1895.	1,250,000
Middletown-Goshen Traction Company; Middletown - Bloomingburg Electric Railway Company.	Middletown - Goshen Traction Company	June 22, 1895.	400,000

STEAM ROADS.

Western New York Railway Company; Northwestern Pennsylvania Railway Company	Western New York and Pennsylvania Railway Company	March 18, 1895.	20,000,000
The Batavia and Northern Railroad Company; the International and Oak Orchard Harbor Railroad Company	The Batavia and Northern Railroad Company	May 20, 1895.	500,000
The Rochester and Honeoye Valley Railroad Company; the Rochester and Southern Railroad Company	"Rochester Southern Railroad Company"	Aug. 14, 1895.	800,000

EXTENSION OF ROUTES.

The following companies have, during the last year, filed articles of extension of routes:

NAME OF ROAD.	Extension filed.		Length of Extension.
The North and South Electric Railway (Yonkers)	July	23, 1894	.....
Buffalo and Niagara Falls Electric Railway	Aug.	7, 1894	.....
The Cortland and Homer Traction Company	Aug.	10, 1894	.....
The North and South Electric Railway (Yonkers)	Aug.	27, 1894	.....
The Long Island Electric Railway Company	Oct.	11, 1894	.....
Syracuse Street Railroad Company	Oct.	22, 1894	.....
Peekskill, State Camp and Mohegan Railroad	Oct.	30, 1894	.....
Crosstown Street Railway Company, of Buffalo	Nov.	26, 1894	.....
Amsterdam Street Railroad Company	Dec.	10, 1894	2 1-3 miles
Peekskill, State Camp and Mohegan Railroad	Dec.	20, 1894	.....
The Colonial City Electric Railway Company	Dec.	28, 1894	.....
The Staten Island Midland Railroad Company	Dec.	28, 1894	1½ miles
The Staten Island Belt Line Railroad Company	Jan.	8, 1895	.....
The West Side Railroad Company, of Elmira	Jan.	24, 1895	1,500 feet
Buffalo and Niagara Falls Electric Railway	Feb.	9, 1895	.....
Metropolitan Street Railway Company	Feb.	12, 1895	.....
Long Island City and Newtown Railroad Company	Feb.	13, 1895	.....
Steinway Railway Company, of Long Island City	Feb.	13, 1895	.....
Third Avenue Railroad Company	Feb.	16, 1895	11 miles
The North Mount Vernon Railway Co. (three certificates)	March	4, 1895	.....
The New York, Westchester and Connecticut Traction Co.	March	22, 1895	.....
The Coney Island and Brooklyn Railroad Company	March	28, 1895	.....
Syracuse and East Side Railway Company	April	8, 1895	.....
The Auburn City Railway Company	April	12, 1895	.....
The Broadway and Seventh Avenue Railroad Company	April	13, 1895	Less than ½ mile
The Broadway and Seventh Avenue Railroad Company	April	23, 1895	Less than ½ mile
The Broadway and Seventh Avenue Railroad Company	May	14, 1895	Less than ½ mile
The Metropolitan Street Railway Company	April	13, 1895	162 feet
The Metropolitan Street Railway Company	April	23, 1895	390 feet
The Metropolitan Street Railway Company	April	23, 1895	Less than ½ mile
The New York, Westchester and Connecticut Traction Co.	April	17, 1895	.....
The New York, Westchester and Connecticut Traction Co.	May	11, 1895	.....
The Broadway and Seventh Avenue Railroad Company	April	23, 1895	Less than ½ mile
The Central Park, North and East River Railroad Company	April	23, 1895	Less than ½ mile
The Central Park, North and East River Railroad Company	May	14, 1895	Less than ½ mile
New York, Elmsford and White Plains Railway Company	April	23, 1895	.....
The Sixth Avenue Railroad Company	April	24, 1895	Less than ½ mile
Colonial City Electric Railway Company	May	1, 1895	.....
Columbus and Ninth Avenue Railroad Company	May	7, 1895	Less than ½ mile
New York, Westchester and Connecticut Traction Co.	May	11, 1895	.....
Broadway and Seventh Avenue Railroad Company	May	14, 1895	Less than ½ mile
Central Park, North and East River Railroad Company	May	14, 1895	Less than ½ mile
Corning and Painted Post Street Railway	May	28, 1895	1 mile
Columbus and Ninth Avenue Railroad Company	June	3, 1895	Less than ½ mile
Ninth Avenue Railroad Company	June	3, 1895	Less than ½ mile
The Twenty-eighth and Twenty-ninth Streets Railroad Co.	June	7, 1895	.....
The Cortland and Homer Traction Company	June	22, 1895	.....
Geneva, Waterloo, Seneca Falls and Cayuga Lake Trac. Co.	July	6, 1895	.....
Staten Island Electric Railroad Company	July	31, 1895	.....
Auburn City Railway Company	Aug.	15, 1895	.....
Third Avenue Railroad Company	Aug.	15, 1895	3 $\frac{25}{100}$ miles
Amsterdam Street Railroad Company	Aug.	30, 1895	.....
Southern New York Railway Company	Sept.	5, 1895	.....
Steinway Railway Company, of Long Island City	Sept.	14, 1895	.....
Hudson Electric Railway Company	Sept.	16, 1895	.....
Bleecker Street and Fulton Ferry Railroad Company	Sept.	17, 1895	Less than ½ mile
Broadway and Seventh Avenue Railroad Company	Sept.	17, 1895	Less than ½ mile
Ninth Avenue Railroad Company	Sept.	17, 1895	.....
Ogdensburg Street Railway Company	Sept.	20, 1895	.....
The Southern Boulevard Railroad Company	Sept.	20, 1895	.....
Niagara Falls and Suspension Bridge Railway Company	Sept.	21, 1895	.....

INCREASE OF CAPITAL STOCK.

The following companies have increased their capital stock during the year, to wit:

NAME OF ROAD.	From.	To.	Filed with Secretary of State.
Utica Belt Line Street Railroad Company	$150,000	$300,000	Aug 10 1894
Fort Plain and Richfield Springs Railway	300,000	600,000	Sept. 21, 1894
Fulton Elevated Railway Company	300,000	1,500,000	Nov. 8, 1894
Syracuse and East Side Railway Company	200,000	250,000	Nov., 1894
Third Avenue Railroad Company	7,000,000	9,000 000	Jan. 12, 1895
Kings County Elevated Railway Company	3,250,000	4,750,000	Feb. 26 1895
Herkimer, Mohawk, Ilion and Frankfort Electric Railway	55,000	150,000	April 23, 1895
Buffalo and Tonawanda Electric Railway	100,000	250,000	May 14, 1895
The Niagara Falls and Lewiston Railroad Company	100,000	1,400,000	June 10 1895
The Dunkirk and Fredonia Railroad Company	75,000	150,000	July 16, 1895
The Ithaca Street Railway Company	250,000	300,000	July 18, 1895
The Ogdensburg Street Railway Company	70,000	150,000	Aug. 3, 1895

SURRENDER OF CAPITAL STOCK.

The following companies have, during the year, surrendered capital stock

"FULTON ELEVATED RAILWAY COMPANY,"

surrendered to the "Kings County Elevated Railway Company."

Certificate filed in the office of Secretary of State May 3, 1895.

LEASED ROADS.

The following roads were leased during the year, viz.:

"ROCHESTER ELECTRIC RAILWAY COMPANY,"

was leased September 8, 1894, to the "Rochester Railway Company."

Lease filed in the office of Secretary of State September 17, 1894.

"THE CORTLAND AND HOMER RAILROAD COMPANY,"

was leased June 28, 1894, to "The Cortland and Homer Traction Company."

Lease filed in the office of Secretary of State January 2, 1895.

"COLUMBUS AND NINTH AVENUE RAILROAD COMPANY, AND METROPOLITAN STREET RAILWAY COMPANY,"

was leased March 1, 1895, to "The New York Guarantee and Indemnity Company" to secure $3,000,000 1st mortgage 5 per cent. bonds of the Columbus and Ninth Avenue Railroad Company.

Lease filed in the office of Secretary of State April 5, 1895.

REDUCTION OF NUMBER OF DIRECTORS.

NAME OF COMPANY.	From	To	Filed with Secretary of State.
Buffalo and Williamsville Electric Railway Company.....	13	11	March 7, 1895

INCREASE OF NUMBER OF DIRECTORS.

NAME OF COMPANY.	From	To	Filed with Secretary of State.
Fonda, Johnstown and Gloversville Railroad Company.....	13	14	Jan. 14, 1895

AMENDED CERTIFICATES OF INCORPORATION.

The following roads filed amended certificates of incorporation during the year, viz.:

"THE NEW YORK, ELMSFORD AND WHITE PLAINS RAILWAY COMPANY."
Capital stock, $60,000.
Directors, 9.
Certificate filed in the office of the Secretary of State September 6, 1894.

"THE WHITE PLAINS AND MAMARONECK RAILWAY COMPANY."
Capital stock, $90,000.
Directors, 9.
Certificate filed in the office of the Secretry of State September 6, 1894.

"THE WESTCHESTER AND WILLIAMSBRIDGE TRACTION COMPANY."
Certificate filed in the office of the Secretary of State May 16, 1895.

"NEW YORK AND PENNSYLVANIA RAILROAD COMPANY."
Certificate filed in the office of the Secretary of State September 23, 1895.
Affidavit of three directors, under chapter 238, laws of 1893.

"BUFFALO AND TONAWANDA ELECTRIC RAILWAY."
Affidavit filed in the office of the Secretary of State February 11, 1895.

ABANDONMENT OF PART OF ROUTE.

"UTICA BELT LINE STREET RAILROAD COMPANY."
Certificate filed in the office of Secretary of State October 19, 1894.

"BUFFALO RAILWAY COMPANY."
Certificate filed in the office of Secretary of State December 10, 1894.

"CONEY ISLAND AND BROOKLYN RAILROAD COMPANY."
(In pursuance of chapter 951, laws of 1895.)
Certificate filed in the office of Secretary of State August 16, 1895.

CERTIFICATE UNDER SECTION 59, RAILROAD LAW.

"MOHAWK EXTENSION RAILROAD COMPANY."
Certificate filed in office of Secretary of State October 17, 1894.

"RACQUETTE RIVER RAILROAD COMPANY."
Certificate filed in office of Secretary of State July 1, 1895."

"ROCHESTER AND SOUTHERN RAILROAD COMPANY."
Certificate filed in office of Secretary of State July 8, 1895.

"THE TERMINAL RAILWAY OF BUFFALO."
Certificate filed in office of Secretary of State September 27, 1895.

ENACTMENTS.

1895.

CHAP. 64. An act to authorize the city of Syracuse to use certain moneys raised "for the construction or contribution to the cost of construction of a bridge and approaches over the tracks of the New York Central and Hudson River Railroad, and Delaware Lackawanna and Western Railroad Company and the Erie Canal, where the same cross West Genesee street in said city," and for other purposes.

CHAP. 156. An act to amend chapter three hundred and fifty-seven of the laws of eighteen hundred and ninety-three, entitled "An act to authorize the Canandaigua Electric Light Company, a domestic electric light and power corporation, to acquire the property rights and franchises of the Canandaigua Street Railroad company, and to build, maintain and operate by electricity as a motive power certain railroads."

CHAP. 164. An act to reimburse Tioga County for its disbursements connected with the Lehigh Valley Railroad strike in the year eighteen hundred and ninety-two.

CHAP. 228. An act relating to the moneys received by the town of Hounsfield from the sale of stock in the Carthage, Watertown and Sackett's Harbor Railroad Company.

CHAP. 240. An act to provide for licensing foreign stock corporations.

CHAP. 328. An act to extend the time for the completion of the New York Canadian Pacific Railway.

CHAP. 345. An act in relation to Hancock street in the city of Brooklyn.

CHAP. 357. An act in relation to Jefferson avenue in the city of Brooklyn.

CHAP. 389. An act in relation to Henry and Clinton streets, in the city of Brooklyn.

CHAP. 395. An act to amend the Game Law and to repeal chapter three hundred and thirty-two of the laws of eighteen hundred and ninety-three, entitled "an act in relation to the forest preserve and Adirondack Park, constituting articles six and seven of chapter 43 of the general laws."

CHAP. 417. An act to regulate the exercise of their franchises by certain public corporations, by requiring them to afford facilities for the transaction of the public business, to certain public officers and employes.

CHAP. 421. An act to authorize the Mayor of the city of Dunkirk and Supervisors of the Town of Dunkirk to hold, use or dispose of certain shares of stock issued by the Dunkirk, Warren and Pittsburgh Railway Company to the Town of Dunkirk.

CHAP. 427. An act to extend the time for the completion of the New York, Boston, Albany and Schenectady Railroad.

CHAP. 428. An act to amend chapter six hundred and seventy-one of the laws of eighteen hundred and eighty-seven, amending the act incorporating the New York Northern Railroad Company.

CHAP. 434. An act in relation to Stuyvesant avenue, in the city of Brooklyn.

CHAP. 454. An act to amend the Railroad Law, relating to foreclosure and sale of property under decree of United States Courts.

CHAP. 470. An act to amend the Game Law, relating to exceptions as to Saint Lawrence County and Lake Champlain, in Essex and Warren Counties.

CHAP. 513. An act to amend section forty-two of the Railroad Law.

CHAP. 519. An act to amend chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities of over one million inhabitants."

CHAP. 529. An act to amend chapter seven hundred and seventy-nine of the laws of eighteen hundred and sixty-eight, entitled "An act in reference to mortgages executed by railroad companies."

CHAP. 530. An act to amend title one, chapter ninety-five of the laws of eighteen hundred and ninety, entitled "An act to amend the code of civil procedure," being title one of chapter twenty-three of the code of civil procedure known as the Condemnation Law.

CHAP. 545. An act to amend the Railroad Law.

CHAP. 579. An act to amend section sixty-two of chapter nineteen of the general laws, concerning commutations of labor on highways.

CHAP. 632. An act to empower the Canal Board to authorize the owners of the mills north of Ferry street, on the State Pier, in Niagara River, at Black Rock, to construct a railroad track on said State Pier from their mills to the railroad tracks of the International Bridge Company.

Chap. 642. An act in relation to Bedford avenue, in the city of Brooklyn.

CHAP. 643. An act in relation to Brooklyn avenue, in the city of Brooklyn.

CHAP. 644. An act in relation to Pacific street, in the city of Brooklyn.

CHAP. 672. An act to amend the General Corporation Law, relating to definition of corporations, qualifications of incorporators, grant of general powers as to acts of directors, et cetera.

CHAP. 686. An act in relation to Bushwick avenue, in the city of Brooklyn.

CHAP. 700. An act to extend the time for the commencement of construction or completion of railroads other than street surface railroads.

CHAP. 726. An act to amend section six hundred and thirty-five of the penal code.

CHAP. 780. An act in relation to Schermerhorn street, in the city of Brooklyn.

CHAP. 791. An act to amend chapter three hundred and eighty-eight of the laws of eighteen hundred and ninety, entitled "An act to provide for the weekly payment of wages by corporations."

CHAP. 870. An act to prevent the use of certain streets in the city of New York for railroads.

CHAP. 892. An act to amend the penal code relating to person unable to read not acting as engineer and preventing operators less than eighteen years old from telegraphing movement of trains.

CHAP. 916. An act to amend chapter seven hundred and one of the laws of eighteen hundred and ninety-four, entitled "An act to amend chapter two hundred and seventy seven of the laws of eighteen hundred and eighty-nine, entitled 'An act to amend chapter four hundred and twenty of the laws of

eighteen hundred and eighty, entitled An act to amend chapter one hundred and twenty-three of the laws of eighteen hundred and seventy-four, entitled An act to amend the charter of the Hudson Suspension Bridge and New England Railway Company.'"

CHAP. 921. An act to amend the Railroad Law in relation to the consolidation of companies.

CHAP. 933. An act to amend the Railroad Law, relating to street surface railroads; general provisions.

CHAP. 945. An act to legalize the agreement between the Binghamton, Lestershire and Union Railroad Company and the village of Union.

CHAP. 951. An act in relation to the occupation of Fort Hamilton avenue, in the city of Brooklyn, by railroads, and to authorize the city of Brooklyn to provide for the removal of any railroad now occupying the same.

CHAP. 974. An act for the protection, preservation and propagation of birds, fish and wild animals in the State of New York and the different counties thereof.

CHAP. 1014. An act to authorize the New York and Brooklyn Tunnel Company to construct a single or double tunnel in and between the cities of New York and Brooklyn.

CHAP. 1027. An act in relation to the issue of mileage books by railroad corporations.

CHAP. 1039. An act to amend chapter three hundred and fifty-three of the laws of eighteen hundred and ninety-two, relating to railroad crossings.

CHAP. 1040. An act to affirm the official acts of the Grade Crossing Commissioners of the City of Buffalo, named in chapter three hundred and forty-three of the laws of eighteen hundred and eighty-eight, and continued under said chapter in the acts amendatory thereof or supplemental thereto, or of the majority of them, relating to the relief of said city from the present and prospective obstructions of the streets of said city by railroads crossing the same at grade.

EXPENSES OF THE BOARD.

Traveling expenses of the Board of Railroad Commissioners for the year ending June 30, 1895, as filed and audited by items in the office of the Comptroller of the State. (Limited by chapter 564, Laws of 1890, to $500 a month, in the aggregate, or $6,000 per annum).

Of the Commissioners	$118 39
Of the Secretary	352 05
Of the inspector and accountant	337 36
Of the stenographer	134 85
Total	$1,942 65

ALPHABETICAL LIST

OF COMPANIES FORMED UNDER THE LAWS OF THIS STATE.

Name of road.	When formed.
Addison and Northern Pennsylvania	1882
Addison and Pennsylvania	1892
Addison and Pennsylvania	1892
Addison, Osceola and Cowanesque Valley	1878
Addison and Pennsylvania	1887
Adirondack	1839
Adirondack	1863
Adirondack Estate Railroad Company	1860
Adirondack Extension	1891
Adirondack and St. Lawrence	1890
Adirondack Railway	1882
Albany	1861
Albany	1863
Albany, Bennington and Rutland	1850
Albany and Boston	1862
Albany and Boston	1864
Albany, Greenbush and Bath	1895
Albany and Kenwood	1863
Albany and Lackawanna	1866
Albany and New York	1866
Albany and Northern	1851
Albany Railroad	1868
Albany Railway	1863
Albany, Sandlake and Stephentown	1871
Albany and Saratoga	1852
Albany and Saratoga Springs	1853
Albany and Schenectady	1847
Albany and Suburban	1895
Albany and Susquehanna	1851
Albany Terminal	1888
Albany and Vermont	1859
Albany, Vermont and Canada	1859
Albany and West Stockbridge	1836
Albion and Tonawanda	1832
Allegany Central	1881
Allegany Central	1882
Albany and Kinzua	1880
Amsterdam, Chuctanunda and Northern	1879
Amsterdam Street	1873
Amsterdam Electric	1888
Amsterdam, Johnstown and Gloversville	1894
Arcade and Genesee River	1872
Astoria, Bliseville and Calvary Cemetery	1891
Astoria and Hunter's Point	1867
Astoria and Hunter's Point	1877
Astoria Street	1891
Atlantic Avenue	1872
Atlantic Avenue	1890
Atlantic Cable	1888
Atlantic and Great Western	1859
Atlantic and Great Western	1872
Atlantic and Great Western of New York	1872
Atlantic and Great Western Railroad Company of New York and Pennsylvania	1872
Atlantic and Ontario	1871
Attica and Allegheny Valley	1852
Attica and Arcade	1870
Attica and Arcade	1880
Attica and Buffalo	1836
Attica and Hornellsville	1845
Attica, Lockport and Lake Ontario	1883
Attica and Sheldon	1836
Auburn City	1886
Auburn and Canal	1832
Auburn and Deposit Air Line	1871
Auburn and Homer Midland	1872
Auburn and Ithaca	1869
Auburn Inter-Urban Electric	1895
Auburn and Owasco Lake	1871
Auburn and Owasco Lake	1880
Auburn and Owasco Lake Electric	1889
Auburn and Port Byron	1869
Auburn and Rochester	1836
Auburn and Syracuse	1894
Auburn and Willow Brook	1872
Aurora and Buffalo	1832
Avenue C	1869
Avon, Geneseo and Mount Morris	1869
Babylon	1871
Baldwinsville Branch	1886
Ballston Electric	1895
Batavia, Albion and Lake Ontario	1863
Batavia, Attica and Salamanca	1867
Batavia and Cheektowaga	1850
Batavia and Northern	1894
Batavia and Northern	1895
Batavia Street	1895
Bath and Crooked Lake	1831
Bath and Hammondsport	1872
Bay Ridge and Sea Shore	1873
Bay Ridge and Sea Side	1871
Bay Shore	1868
Belden Point	1892
Belmont and Buffalo	1871
Binghamton	1892
Binghamton Central	1863
Binghamton, Dushore and Williamsport	1872
Binghamton, Lestershire and Union	1894
Binghamton and Port Dickinson	1869
Binghamton and Southwestern	1867
Binghamton and Susquehanna	1833
Binghamton and State Line	1892
Binghamton and Williamsport	1892
Black River	1836
Black River Company	1832
Black River and Morristown	1870
Black River and St. Lawrence	1868
Black River and Utica	1853
Black River and Woodhull	1868
Bleecker Street and Fulton Ferry	1884
Blossburgh and Corning	1854
Boonville and Constableville	1868
Boonville and Ontario	1868
Boonville and Port Ontario	1873
Boonville and Turin	1868
Boston and Albany	1870
Boston, Albany and Schenectady	1877
Boston, Hartford and Erie	1864
Boston, Hartford and Erie Extension	1864
Boston, Hartford and Erie Ferry Extension	1864
Boston and Henderson Harbor	1872
Boston, Hoosac Tunnel and Albany	1873
Boston, Hoosac Tunnel and Western	1877
Boston, Hoosac Tunnel and Western Railway	1881
Boston, New York and Chicago	1874
Boston, New York and Western	1880
Boston, Rome and Oswego	1871
Boston, Saratoga and Western	1870

Name of road.	When formed.
Boutenberg	1886
Bowery Bay and Hunter's Point	1882
Bradford, Eldred and Cuba	1881
Branchport and Penn Yan	1885
Breslau and Fire Island	1872
Brewerton and Syracuse	1836
Bridge Tunnel	1886
Brighton (No. 1)	1880
Brighton (No. 2)	1880
Brighton Beach	1879
Brighton Beach and New York	1880
Broadway and Bowery Bay	1883
Broadway (of Brooklyn)	1858
Broadway (of New York)	1884
Broadway Central Underground	1880
Broadway, Ferry and Metropolitan Ave.	1892
Broadway, Lexington and Fifth Avenue.	1884
Broadway Railway	1890
Broadway and Rockaway Beach	1880
Broadway and Seventh Avenue	1864
Broadway Surface	1884
Broadway Underground	1880
Broadway Underground Connecting	1880
Broadway and Yonkers Patent	1886
Brocton Street	1894
Brook Avenue	1885
Brookfield	1888
Brooklyn, Bath and Coney Island	1862
Brooklyn, Bath and Coney Island	1879
Brooklyn, Bath and West End	1879
Brooklyn, Bergen Beach and Canarsie	1893
Brooklyn Bridge and South Ferry	1887
Brooklyn Bridge and South Shore	1886
Brooklyn and Brighton Beach	1887
Brooklyn, Bushwick and Queens County.	1885
Brooklyn Cable	1883
Brooklyn Cable	1886
Brooklyn and Canarsie	1865
Brooklyn Central	1859
Brooklyn Central and Jamaica	1860
Brooklyn City	1853
Brooklyn City Elevated	1875
Brooklyn City Elevated	1879
Brooklyn City, Hunter's Point and Prospect Park	1868
Brooklyn City and Newtown	1860
Brooklyn City and Ridgewood	1861
Brooklyn City and Rockaway	1862
Brooklyn and Coney Island	1876
Brooklyn and Coney Island Central	1877
Brooklyn, Coney Island and Rockaway	1878
Brooklyn Crosstown	1872
Brooklyn, East New York and Rockaway	1864
Brooklyn Elevated	1884
Brooklyn Elevated and Atlantic Beach	1879
Brooklyn Elevated Railway Construction Company	1882
Brooklyn Elevated Silent Safety	1874
Brooklyn, Flatbush and Coney Island	1866
Brooklyn, Flatbush and Coney Island	1859
Brooklyn, Flatbush and Coney Island Railway	1877
Brooklyn, Flatbush and Rockaway Beach	1879
Brooklyn, Fort Hamilton, Bath and Coney Island	1836
Brooklyn, Fort Hamilton and Coney Island	1867
Brooklyn, Fort Hamilton and Coney Island	1881
Brooklyn Heights	1887
Brooklyn Heights Cable	1886
Brooklyn and Jamaica	1832
Brooklyn and Jamaica	1866
Brooklyn and Jersey City Ferry	1884
Brooklyn and Long Island Cable	1884
Brooklyn and Long Island City	1880
Brooklyn and Long Island Trunk	1883
Brooklyn and Montauk	1880
Brooklyn, Middle Village and Jamaica	1866
Brooklyn, Mapleton, Van Pelt Manor and Bath Beach	1893
Brooklyn, Newtown and Bowery Bay	1894
Brooklyn, New York and New Jersey Terminal	1893
Brooklyn, Prospect Park and Flatbush	1867
Brooklyn, Prospect Park and Jamaica Bay	1869
Brooklyn and Queens County	1883
Brooklyn, Queens County and Suburban.	1893
Brooklyn and Rockaway	1867
Brooklyn and Rockaway Beach	1864
Brooklyn, Rockaway and Coney Island	1881
Brooklyn and Sea Shore	1871
Brooklyn Steam Transit	1860
Brooklyn Steam Transit	1871
Brooklyn Sub-railway	1886
Brooklyn and Suburban	1887
Brooklyn Underground	1881
Brooklyn, Winfield and Newtown	1870
Brooklyn and Winfield Railway	1869
Broome and DeLancey Street Crosstown.	1886
Broome, DeLancey and Spring Streets	1885
Buffalo	1860
Buffalo and Allegany Valley	1853
Buffalo, Aurora and Southeastern	1882
Buffalo and Batavia	1838
Buffalo, Belview and Lancaster	1892
Buffalo and Black Rock	1833
Buffalo, Bradford and Pittsburg	1859
Buffalo Branch of the Erie Railway	1861
Buffalo, Cayuga Valley and Pine Creek	1882
Buffalo, Chautauqua Lake and Pittsburg	1879
Buffalo City	1867
Buffalo City	1877
Buffalo, Cleveland and Chicago Railway.	1881
Buffalo and Conhocton Valley	1850
Buffalo, Corning and New York	1852
Buffalo, Corey and Pittsburg	1868
Buffalo Creek	1869
Buffalo Creek Extension	1874
Buffalo Creek Transfer	1881
Buffalo Crosstown	1874
Buffalo Dock and Connecting	1890
Buffalo and East Aurora Electric	1892
Buffalo East Side Street	1870
Buffalo Electric and Cable Street	1889
Buffalo and Erie	1832
Buffalo and Erie	1867
Buffalo Erie Basin	1876
Buffalo, Gardenville and Ebenezer	1895
Buffalo and Geneva	1886
Buffalo and Geneva	1889
Buffalo and Great Western	1882
Buffalo Harbor	1883
Buffalo and Hamburgh	1892
Buffalo and Hinsdale	1846
Buffalo and International	1857
Buffalo and International Bridge	1871
Buffalo and Jamestown	1872
Buffalo, Kenmore and Tonawanda Electric	1891
Buffalo, Lackawanna and Pacific	1889
Buffalo and Lancaster Electric	1892
Buffalo and Lake Huron	1858
Buffalo Lehigh	1881
Buffalo and Lockport	1852
Buffalo and New York	1851
Buffalo and New York City	1851
Buffalo, New York and Erie	1857
Buffalo, New York and Philadelphia	1871
Buffalo and Niagara Falls	1834
Buffalo and Niagara Falls Electric	1893
Buffalo and Niagara Falls Electric	1895
Buffalo Niagara Slip	1877
Buffalo, North Main Street and Tonawanda Electric	1892
Buffalo, North Main Street and Tonawanda	1895
Buffalo, North Tonawanda and Sanborn Electric	1893
Buffalo and Oil Creek Cross Cut	1865
Buffalo and Pittsburg	1852

Name of road.	When formed.
Buffalo, Pittsburg and St. Louis	1852
Buffalo, Pittsburg and Western	1880
Buffalo, Pittsburg and Western	1881
Buffalo and Rochester	1850
Buffalo, Rochester and Pittsburg	1881
Buffalo, Rochester and Pittsburg	1886
Buffalo, Rochester and Pittsburg	1887
Buffalo and South Park Belt Line	1887
Buffalo and Southwestern	1878
Buffalo and State Line	1849
Buffalo and Springville	1871
Buffalo Street	1860
Buffalo, Syracuse and Albany	1878
Buffalo and Tonawanda Electric	1893
Buffalo, Thousand Islands and Portland	1890
Buffalo, Tonawanda and Niagara Falls	1853
Buffalo, Tonawanda and Niagara River	1890
Buffalo and Washington	1865
Buffalo and Williamsville	1868
Buffalo and Williamsville	1870
Buffalo and Williamsville	1886
Buffalo and Williamsville Electric	1891
Buffalo, Williamsville and Northern	1888
Burnet Street Car	1886
Bushwick	1867
Cairo	1884
Calvary Cemetery, Greenpoint and Brooklyn	1885
Camden, Watertown and Northern	1890
Campbell Hall Connecting	1889
Canajoharie and Catskill	1830
Canal	1878
Canandaigua and Bath	1872
Canandaigua and Corning	1845
Canandaigua and Elmira	1852
Canandaigua Lake	1887
Canandaigua and Niagara Falls	1851
Canandaigua, Palmyra and Ontario	1872
Canandaigua Railway and Transportation Company	1828
Canandaigua Street	1886
Canandaigua and Syracuse	1853
Canarsie, Brooklyn and Winfield	1864
Canarsie and Flatbush	1874
Canastota Northern	1886
Canisteo Valley Electric	1891
Canton and St. Lawrence River	1885
Canton and Waddington	1884
Capitol Railway	1891
Cassadaga and Erie	1836
Castleton and West Stockbridge	1834
Carthage and Adirondack	1883
Carthage, Watertown and Sacketts Harbor	1869
Catskill City	1885
Catskill Horse	1874
Catskill and Ithaca	1828
Catskill Mountain	1880
Catskill Mountain	1885
Catskill and Schoharie Valley	1871
Catskill and Tannersville	1892
Cattaraugus	1868
Cayadutta Electric	1892
Cayuga Lake	1867
Cayuga Lake Electric	1894
Cayuga Midland	1871
Cayuga Northern	1872
Cayuga Railway	1875
Cayuga Southern	1878
Cayuga and Susquehanna	1843
Cazenovia and Canastota	1868
Cazenovia and Canastota	1873
Cazenovia, Canastota and De Ruyter	1873
Cazenovia, Canastota and De Ruyter	1876
Cazenovia and De Ruyter	1872
Cedarhurst	1885
Central City	1859
Central Crosstown	1873
Central Dock and Terminal	1889
Central Elevated Railway	1869
Central Elevated Railway	1886

Name of road.	When formed.
Central of Long Island	1871
Central New England and Western	1899
Central New York and Western	1892
Central Park, North and East River	1866
Central Park and Kingsbridge	1866
Central Railroad Extension	1873
Central Saratoga	1878
Central of Staten Island	1870
Central (Staten Island)	1873
Central Tunnel	1861
Central Valley	1870
Chambers Street	1877
Chambers Street	1884
Chambers Street Crosstown	1880
Chambers Street and Grand Street Ferry	1884
Champlain and St. Lawrence	1851
Charlotte Lake View	1875
Charlotte and Lake View	1881
Chateaugay	1879
Chateaugay	1887
Chautauqua County	1851
Chautauqua Lake	1874
Chautauqua Lake	1885
Chautauqua Lake	1886
Chautauqua Valley	1882
Chazy	1893
Chemung	1845
Chemung and Ithaca	1857
Chenango Valley	1863
Cherry Valley, Sharon and Albany	1869
Cherry Valley and Mohawk River	1864
Cherry Valley and Sprakers' Horse Power Railroad Company	1860
Cherry Valley and Susquehanna	1836
Chittenango and White Sulphur Springs	1895
Christopher and Tenth Street	1873
Christopher Street and James Slip Ferry	1885
Citizens' Electric	1887
Citizens' Electric (Corning)	1892
Citizens' Railway	1885
Citizens' Railway of Jamestown	1890
Citizens' Street Railway	1890
Citizens' Street Railroad Company of Rochester	1885
Citizens' Surface	1858
City (Binghamton)	1883
City Island	1884
City Line and Canarsie	1869
City of Poughkeepsie	1869
City (Poughkeepsie)	1878
City Railway Company of New York	1888
Clayton and Theresa	1871
Clinton Avenue	1864
Clinton and South Clinton	1853
Clove Branch	1868
Clyde and Sodus Bay	1853
Coeymans	1836
Cohoes City	1894
Cohoes and Waterford	1863
Cohoes and Waterford	1867
Cohoes and Waterford	1872
Cold Springs	1839
Colonial City Electric	1888
Columbia County Electric	1895
Columbia and Rensselaer	1896
Columbia Street and Erie Basin	1866
Columbus and Ninth Avenue	1862
Concourse	1889
Conesus Lake	1882
Coney Island Beach	1877
Coney Island and Brooklyn	1869
Coney Island Centre and Safety Rails Elevated	1880
Coney Island and East River	1876
Coney Island Electrical	1887
Coney Island Elevated	1880
Coney Island, Fort Hamilton and Brooklyn	1882
Coney Island, Fort Hamilton and Brooklyn	1894
Coney Island and Gravesend	1883

Name of road.	When formed.
Coney Island High and Low-water Mark	1877
Coney Island and Rockaway	1878
Coney Island and Sea View Elevated	1880
Coney Island, Sheepshead Bay and Ocean Avenue	1880
Coney Island Surface	1877
Coney Island Surface	1889
Coney Island Transit	1880
Connecting Terminal	1881
Cooperstown and Charlotte Valley	1888
Cooperstown and Cherry Valley	1837
Cooperstown and Susquehanna Valley	1865
Copenhagen and Turin	1866
Corning and Blossburgh	1851
Corning, Cowanesque and Antrim	1873
Corning and Olean	1853
Corning and Painted Post	1866
Corning and Painted Post Street	1894
Corning Traction	1894
Corning and Seneca Lake	1864
Cornwall Branch	1869
Cornwall Suspension Bridge	1868
Cortland and Homer	1882
Cortland and Homer Traction	1894
Coudersport, Hornellsville and Lackawanna	1889
Court Street and East End	1886
Court Street and River Side	1883
Court Street and River Side	1885
Coxsackie and Schenectady	1837
Crescent (Long Island City)	1892
Crosstown Street	1890
Crosstown and Rochester	1889
Croton Valley	1885
Cypress Hill Railway	1872
Dansville and Rochester	1882
Dansville Electric	1893
Davenport	1888
Davenport, Middlebury and Durham	1892
Delaware	1836
Delaware and North River	1889
Delaware and Otsego	1887
Delaware and Hudson River	1882
Delhi and Middletown	1871
Deer Park and Babylon	1892
Deerfield and Utica	1888
Depot Belt Line	1891
Depew and Southwestern	1895
Depew and Tonawanda	1895
Dexter and Brownville Street	1895
Dexter and Ontario	1889
Division Avenue	1853
Dry Dock, East Broadway and Battery	1863
Dunderberg Spiral	1889
Dunkirk, Allegheny Valley and Pittsburg	1872
Dunkirk and Chautauqua Lake	1865
Dunkirk, Chautauqua Lake and Pittsburg	1873
Dunkirk and Fredonia	1864
Dunkirk and Fredonia Rapid Transit	1891
Dunkirk and Junction	1879
Dunkirk, Warren and Pittsburg	1867
Dunkirk, Warren and Pittsburg	1870
Dutchess	1832
Dutchess	1836
Dutchess and Columbia	1866
Dutchess County	1890
Dutchess Extension	1889
East Branch Connecting	1889
East Brooklyn Railroad	1874
East Brooklyn Railway	1873
East Brooklyn, Winfield and Newtown	1867
East Buffalo Terminal	1883
East Chester	1886
Eastern Branch of the Dutchess and Columbia	1868
Eastern Railroad Company of Long Island	1879
East Genesee Street and Seward Avenue	1871
East Genesee Street and Seward Avenue Railway	1881
East New York, Bayside and Ozone Park	1885
East New York and Jamaica	1860
East New York and Jamaica Bay	1865
East and North River	1861
East and North River	1884
East River Bridge and Coney Island Transit	1881
East River, Central Park and North River	1889
East River and Connecticut Railway	1881
East River Connecting	1890
East River and Newtown	1885
East River Tunnel	1885
East Side (Elmira)	1891
East Side and Mt. Vernon Railway	1881
East Side and New Rochelle Patent Railway	1866
East Side Railway	1868
East Side of Rochester	1887
East and West	1890
East and West Ferries	1887
Edenwald Street	1895
Eddyville and Hickory Bush	1891
Eighth Avenue	1855
Eighth Ward	1889
Electric (Auburn)	1893
Eleventh Ward Street	1889
Elmira, Canandaigua and Niagara Falls	1857
Elmira Connecting	1882
Elmira, Cortland and Northern	1884
Elmira and Horseheads	1871
Elmira, Jefferson and Canandaigua	1859
Elmira and Lake Ontario	1866
Elmira and State Line	1872
Elmira Transfer	1885
Elmira and Williamsport	1862
Elmira and Williamsport	1860
Elmwood Avenue and Tonawanda Electric	1893
Erie and Black Rock	1882
Erie and Cattaraugus	1837
Erie and Central New York	1883
Erie and Genesee Valley	1868
Erie International	1872
Erie and New England	1868
Erie and New York City	1852
Erie and Niagara River	1882
Erie Railway	1861
Erie, Rochester and Lake Ontario Terminal	1884
Far Rockaway Beach	1881
Far Rockaway Branch	1868
Ferry Crosstown	1885
Fifth Avenue	1884
Fifth Avenue	1885
Fifth Ward	1868
Fifty-second, Fifty-third Streets and Boulevard	1886
Fifty-ninth Street	1885
Fiftieth Street, Astoria Ferry and Central Park	1890
First Avenue and Jersey Ferries	1864
Fish House and Amsterdam	1832
Fishkill	1868
Fishkill Electric	1895
Fishkill and Matteawan Street	1886
Fishkill and Newburgh	1876
Fitchburg	1842
Fitchburg	1892
Flatbush, Coney Island and Canarsie	1864
Flatbush, Coney Island Park and Concourse	1876
Flushing	1852
Flushing	1863
Flushing and College Point	1866
Flushing and College Point Electric	1894
Flushing and College Point Electric Street	1887
Flushing and College Point Street	1886

Name of road.	When formed.
Flushing, Newtown and Long Island City	1892
Flushing, North Shore and Central	1874
Flushing and North Side	1868
Flushing Village	1871
Flushing and Woodside	1864
Fonda and Fultonville	1875
Fonda and Fultonville Electric	1893
Fonda, Johnstown and Gloversville	1867
Forestport	1868
Fort Ann and Mount Hope	1871
Fort Edward, Glens Falls and Sandy Hill	1863
Fort Hamilton and Coney Island	1881
Fort Hamilton and New York Elevated	1888
Fort Plain and Richfield Springs	1887
Fort Plain and Richfield Springs	1892
Fort Plain Street	1887
Fort Pond Bay	1883
Forty-second Street Crosstown	1877
Forty-second Street and Grand Street Ferry	1863
Forty-second Street, Manhattanville and St. Nicholas Avenue	1878
Fourteenth Street District Railway	1885
Fourth Ward (Syracuse)	1888
Frankfort and Ilion	1871
Frankfort and Utica Street	1895
Franklin Avenue	1887
Fredonia and Van Buren	1836
Friendship	1881
Fulton	1864
Fulton and Cortland Street Ferry	1884
Fulton and Cortland Street Ferry Railway	1884
Fulton Elevated	1888
Fulton Ferry and Canarsie Bay	1868
Fulton Ferry and Prospect Park	1867
Fulton Ferry and Tenth Avenue	1865
Fulton and Montgomery County Electric	1892
Fulton and Oswego Falls	1885
Fulton and Oswego Falls Street	1885
Fulton Street Crosstown	1887
Fulton, Wall Street and Cortlandt Street Ferries	1885
Gallupville	1869
Garnerville	1875
Geddes Street Railway	1886
Genesee Falls	1886
Genesee and Hudson	1852
Genesee Valley	1856
Genesee Valley Canal	1880
Genesee Valley Junction	1882
Genesee Valley Terminal	1882
Genesee and Water Street	1865
Genesee and Wyoming Valley	1891
Geneseo	1848
Geneseo and Pittsford	1836
Geneva and Canandaigua	1828
Geneva and Cattaraugus	1837
Geneva Electric	1890
Geneva and Hornellsville	1876
Geneva, Hornellsville and Pine Creek	1876
Geneva and Ithaca	1870
Geneva, Ithaca and Athens	1874
Geneva, Ithaca and Sayre	1877
Geneva and Lyons	1877
Geneva and Sayre	1889
Geneva and Southwestern	1871
Geneva, Southwestern and Hornellsville	1873
Geneva Surface	1891
Geneva and Van Ettenville	1889
Geneva and Waterloo	1893
Geneva, Waterloo, Seneca Falls and Cayuga Lake Traction	1895
Gilbert Elevated	1872
Gilboa	1839
Glendale and East River	1874
Glens Falls	1867
Glens Falls, Sandy Hill and Fort Edward	1885
Glens Falls Street	1885
Glen Haven	1893
Gloversville and Broadalbin	1895
Gloversville and Kingsboro	1874
Gloversville, Mayfield and Northville	1886
Gloversville and Northville	1872
Gloversville Street Electric	1891
Goshen and Albany	1862
Goshen and Deckertown	1867
Goshen and New Jersey	1867
Gouverneur and Adirondack	1889
Gouverneur and Edwards	1889
Gouverneur and Oswegatchie	1862
Grand Street	1850
Grand Street Central Transit	1884
Grand Street Ferry and Middle Village	1889
Grand Street and Maspeth	1850
Grand Street and Newtown	1860
Grand Street, Prospect Park and Flatbush	1870
Grand View Beach	1889
Gravesend, Flatlands, Flatbush and Brooklyn	1860
Great Ausable	1836
Great Valley and Bradford	1881
Greene	1838
Greene	1889
Greenpoint and Calvary	1865
Greenpoint and Lorimer Street	1884
Greenpoint, Prospect Park and Greenwood	1866
Greenpoint and Williamsburgh	1864
Greenwich and Johnsonville	1889
Greenwich and Johnsonville	1874
Greenwich and Johnsonville Railway	1879
Greenwich and Schuylerville Electric	1895
Greenwood and Coney Island	1872
Greenwood Lake and Port Jervis	1888
Hamburg	1895
Hamilton Avenue and Prospect Park	1869
Hamilton Avenue, Prospect Park and Flatbush	1888
Hamilton Ferry and Canarsie	1870
Hancock and Pennsylvania	1889
Hancock and State Line	1889
Harlem Bridge, Morrisania and Fordham	1863
Harlem, Brook Avenue and Woodstock	1890
Harlem Crosstown	1885
Harlem Extension	1870
Harlem and Kings Bridge	1892
Harlem, Mott Haven and Morris Avenue	1890
Harlem River	1863
Harlem River and High Bridge	1853
Harlem River and Port Chester	1866
Harlem River and Port Chester Rapid Transit	1889
Harlem River and Woodstock	1886
Harlem River and Tarrytown	1884
Harlem and Riverdale Park	1885
Hartford and Connecticut Western	1881
Hayt's Corners, Ovid and Willard	1862
Hempstead Traction	1894
Hempstead and Jamaica	1865
Hempstead and Smithtown	1873
Hempstead and Rockaway	1870
Henning Rapid Transit	1891
Herkimer and Mohawk	1871
Herkimer, Mohawk, Ilion and Frankfort Electric	1895
Herkimer, Newport and Poland Narrow Gauge	1889
Herkimer, Newport and Poland Extension	1891
Herkimer and Trenton	1836
Hicksville and Cold Spring Branch	1853
Hicksville and Huntington	1865
High Bridge	1866
High Bridge Elevated Incline	1883
Highland Junction	1881
Highland Trans-Hudson	1861
Hobart Branch	1884
Honeoye	1836
Hoosick	1893

Name of road.	When formed.
Hoosac Tunnel and Saratoga Railway	1881
Hornell Street	1888
Hornellsville	1888
Hornellsville and Almond Street	1873
Hornellsville and Canisteo	1892
Hornellsville and Cohocton Valley	1882
Hornellsville Electric	1891
Hornellsville and West Union	1889
Horseheads and Elmira Avenue	1871
Houston and Hoboken	1885
Houston, West Ave. and Pavonia Ferry	1874
Hudson Avenue	1867
Hudson and Berkshire	1828
Hudson and Boston	1855
Hudson Connecting	1887
Hudson and Delaware	1830
Hudson Electric	1888
Hudson and Kinderhook	1871
Hudson and Mohawk	1869
Hudson River	1846
Hudson River and Boston	1885
Hudson River and Cornell	1895
Hudson River and Washington County Midland	1895
Hudson River West Shore	1867
Hudson and St. Lawrence	1872
Hudson, Suspension Bridge and New England	1870
Hudson Tunnel	1873
Hudson Tunnel	1880
Hudson Tunnel, of New York	1880
Hudson Tunnel Railway	1880
Hudson Valley	1870
Hudson and West Shore	1860
Hunter's Point Avenue and Calvary Cemetery	1889
Hunter's Point and Flushing	1872
Hunter's Point, Ravenwood and Astoria	1864
Hunter's Point and Rockaway Beach	1867
Hunter's Point and South Side	1870
Huntington Street	1887
Huntington Street	1890
Ilion Street	1875
International	1861
International and Oak Orchard Harbor	1894
Iron Hill	1873
Island	1883
Ithaca	1884
Ithaca and Athens	1870
Ithaca and Auburn	1836
Ithaca, Auburn and Western	1876
Ithaca and Cortland	1869
Ithaca and Geneva	1832
Ithaca and Oswego	1828
Ithaca and Port Renwick	1834
Ithaca and Tonawanda	1866
Interstate Traction Company	1892
Irondequoit and Lake Shore Electric	1895
Jackson and Steinway Avenue Railroad Company of Long Island	1879
Jamaica and Brooklyn Road	1880
Jamaica and Middle Village	1866
Jamaica, Woodhaven and Brooklyn	1872
Jamestown	1871
Jamestown	1888
Jamestown and Lake Erie	1894
Jamestown and Northern	1885
Jamestown Short-Line Railway	1886
Jamestown Street	1882
Janesville	1836
Jerome Avenue	1889
Jerome Park	1880
Jerome Park Branch	1876
Jersey City and Albany	1873
Jersey City and Albany Railway	1879
Jersey City and Albany Railroad Company of the States of New York and New Jersey	1879
Jersey Ferries and First Avenue	1865
Johnsonville and Rutland	1890
Johnstown	1836
Johnstown, Gloversville and Kingsboro	1873
Jordon and Skaneateles	1837
Junction	1870
Junction Railway	1865
Kanona and Prattsburgh	1886
Kaaterskill	1882
Kaaterskill and Platteklill	1892
Keeseville, Ausable Chasm and Lake Champlain	1889
Keeseville and Montreal	1869
Kinderhook and Hudson	1889
Kinderhook, Valatie and Stuyvesant	1887
Kinderhook, Valatie and Niverville	1887
Kings Bridge Cable Railway	1886
Kings Bridge, High Bridge and Forty-second Street	1864
Kings Bridge and Yonkers	1876
Kings County	1878
Kings County Central	1876
Kings County Elevated	1879
Kings County Electric	1892
Kings, Queens and Suffolk	1895
Kingston City	1879
Kingston City Electric	1892
Kingston and Rondout	1865
Kingston Turnpike and Railroad Co.	1835
Kingston and Utica	1892
Kingston, Warwick and Easton	1883
Lackawanna and Pittsburg	1883
Lackawanna and Southwestern	1889
Lackawanna and Susquehanna	1867
Lackawanna, Catskill Mountain and Boston	1893
Lake Champlain and Moriah	1867
Lake Champlain and Ogdensburg	1832
Lake Mahopac and Connecticut	1886
Lake Ontario	1874
Lake Ontario and Auburn	1856
Lake Ontario, Auburn and New York	1852
Lake Ontario and Hudson River	1857
Lake Ontario Shore	1868
Lake Ontario Southern	1880
Lake and River Improvement and Railroad Land Company of the New York Wilderness	1865
Lake Shore and Michigan Southern	1869
Lansingburgh and Cohoes	1880
Lansingburgh and Troy	1853
Lansingburgh and Troy	1872
Larchmont	1888
Laurel Hill, New Calvary and Lutheran Cemetery	1885
Lawrenceville and Erie	1874
Lebanon Springs	1852
Lebanon Springs	1893
Lehigh and Hudson River	1882
Lehigh and New York	1895
Lehigh Valley	1882
Lehigh Valley	1882
Lehigh and Pavilion	1893
Le Roy and Northern	1895
Lewiston	1836
Lewiston and Youngstown	1892
Lewiston and Youngstown Frontier	1895
Lexington Ave. and Fourteenth Street	1884
Lexington Avenue and South Ferry	1886
Lexington Avenue	1892
Lexington Avenue and Pavonia Ferry	1892
Lincoln Park and Charlotte	1888
Lima and Honeoye Falls	1892
Little Falls and Dolgeville	1891
Little Falls, Dolgeville and Piseco Lake	1883
Little Falls and Herkimer Street	1895
Little Falls Street	1895
Little Falls and Richfield Springs	1895
Little Falls, Van Hornesville and Otsego Lake Narrow Gauge	1889
Liverpool and Syracuse	1868
Livonia and Lake Conesus	1895
Lockport	1835
Lockport and Batavia	1836

Name of road.	When formed.
Lockport and Buffalo	1871
Lockport and Niagara Falls	1834
Lockport and Northern	1889
Lockport and Olcott Beach	1891
Lockport and Youngstown	1836
Lock City Electric	1892
Lockport City and Olcott Electric	1894
Locust Grove and Brighton Beach	1879
Long Beach Marine	1881
Long Island	1834
Long Island Boynton Bicycle	1891
Long Island City Calvary Cemetery	1871
Long Island City and Flushing	1881
Long Island City and Manhattan Beach	1883
Long Island City and Maspeth	1873
Long Island City and Newtown	1883
Long Island City and Sea Beach	1886
Long Island City Shore	1874
Long Island Elevated Railway	1886
Long Island Electric	1894
Long Island New York Terminal	1892
Long Island, North Shore Branch	1892
Long Lake	1895
Lyons Street Surface	1889
Madison Ave. and Eighty-sixth Street	1885
Madison Ave. and Twenty-third Street	1885
Madison Avenue Underground	1880
Madison County	1829
Mahopac Falls	1884
Main and Ohio Street	1859
Malden	1837
Malden	1863
Malone and Canada	1883
Malone and St. Lawrence	1891
Manhattan Beach Extension	1883
Manhattan Beach and West Brighton	1879
Manhattan Elevated	1875
Manhattan Railroad	1879
Manhattan Railway	1854
Manhattan Railway	1867
Manhattan Surface	1887
Mann's Boudoir Car	1883
Manheim and Salisbury	1834
Maple Avenue	1887
Marginal	1877
Marine	1878
Maspeth Railroad and Bridge Company	1868
Massena Springs and Fort Covington	1884
Mayville Extension	1881
Mayville and Portland	1832
Mechanicville and Fort Edward	1880
Medina and Darien	1884
Medina and Lake Ontario	1836
Melrose and West Morrisania	1886
Metropolitan Crosstown	1889
Metropolitan Elevated	1872
Metropolitan Elevated	1878
Metropolitan Railroad	1864
Metropolitan Railway	1861
Metropolitan Surface	1885
Metropolitan Surface	1886
Metropolitan Transit	1867
Metropolitan Transit	1872
Metropolitan Underground	1891
Middleburgh and Schoharie	1867
Middle Central	1878
Middletown-Bloomingburgh Electric	1895
Middletown and Crawford	1868
Middletown-Goshen Traction	1893
Middletown-Goshen Traction	1895
Middletown Horse	1870
Middletown Street	1889
Middletown Street Railroad and Power	1893
Middletown, Unionville and Water Gap	1866
Middle Village	1867
Middlesex Valley	1892
Midwout, Amersfort and Coney Island	1877
Mohawk and Adirondack	1891
Mohawk and Hudson	1826
Mohawk and Ilion	1870
Mohawk and Lake Erie Railway	1881

Name of road.	When formed.
Mohawk and Moose River	1857
Mohawk and St. Lawrence Railroad Navigation Company	1887
Mohawk and St. Lawrence	1890
Mohawk and Susquehanna Valley	1887
Mohawk Valley	1851
Mohawk Valley and Piseco	1882
Mohawk Valley and Northern	1890
Monroe and Greenwood Lake	1877
Montague Street Railway	1885
Montgomery and Erie	1866
Montgomery and Erie	1886
Monticello Fallsburgh and New York	1888
Monticello and Port Jervis	1888
Montreal and Plattsburgh	1888
Montauk Extension	1888
Morris Avenue	1885
Mount McGregor	1882
Mount McGregor	1890
Mount Prospect and Carroll Street	1873
Mount Vernon and East Chester	1885
Mount Vernon and East Chester	1887
Mount Vernon and Yonkers	1895
Mount Vernon and New York	1892
Myrtle Avenue Branch	1881
Nanuet and New City	1871
Nassau	1885
Nassau Cable	1884
Nassau Electric (Brooklyn)	1893
Neversink Valley	1889
Newark	1836
New Brighton and Onondaga Valley	1869
Newburgh, Dutchess and Connecticut	1877
Newburgh Electric	1894
Newburgh	1868
Newburgh	1882
Newburgh	1886
Newburgh and Kingston	1869
Newburgh and Middletown	1866
Newburgh and Midland	1870
Newburgh and Orange Lake	1894
Newburgh, New Windsor and Balmville	1893
Newburgh and New York Railroad	1864
Newburgh and New York Railroad	1865
Newburgh and Poughkeepsie	1887
Newburgh and Wallkill Valley	1868
New England	1885
New England, New York and Pennsylvania	1878
New England, Lackawanna and Pittsburg	1883
New England and Southwestern	1885
New England and Western	1887
New Hamburgh and Poughkeepsie Connecting	1893
New Jersey and Hudson River	1881
New Jersey and New England	1873
New Jersey and New York	1875
New Jersey and New York Extension	1886
New Jersey and Staten Island Junction	1886
New Paltz and Highland Electric	1893
New Rochelle and Pelham	1886
New Rochelle Street Horse Railroad	1885
New Rochelle Street Horse Railway	1893
Newtown and Flushing	1871
Newtown	1894
New Williamsburg and Flatbush	1873
New York	1840
New York and Albany	1832
New York and Albany	1867
New York and Atlantic	1880
New York and Atlantic Coast	1890
New York, Bay Ridge and Jamaica	1876
New York and Boston	1889
New York and Boston	1892
New York, Boston and Albany	1890
New York, Boston, Albany and Schenectady	1890
New York and Boston Extension	1872
New York, Boston and Montreal	1873
New York and Boston Inland	1882
New York, Boston and Northern	1873

Name of road.	When formed.
New York and Brighton Beach	1879
New York and Brooklyn Elevated	1880
New York and Brooklyn Marine	1880
New York, Brooklyn and Manhattan Beach	1885
New York, Brooklyn and Rockaway	1881
New York, Brooklyn and Sea Beach	1878
New York, Brooklyn and Sea Shore	1877
New York and Brooklyn Tunnel	1895
New York and Brighton Beach	1878
New York Cable	1884
New York and Canada	1872
New York Central	1853
New York District Railway	1885
New York and Palisade	1885
New York Central and Hudson River	1869
New York Central, Hudson River and Fort Orange	1884
New York Central Niagara River	1877
New York, Chicago and St. Louis Railway	1881
New York, Chicago and St. Louis	1887
New York City	1884
New York City Crosstown	1863
New York City Underground	1868
New York City and Northern	1878
New York City Rapid Transit	1872
New York City Suburban Surface	1889
New York and Coney Island	1879
New York, Coney Island and Rockaway	1879
New York and Connecticut	1846
New York, Connecticut and Eastern, of New York	1880
New York Connecting	1892
New York and Croton River	1871
New York and Croton River Extension	1872
New York Bay Extension	1892
New York, Danbury and Boston	1883
New York and East River	1882
New York Elevated	1871
New York and Erie	1832
New York, Elmsford and White Plains	1892
New York and Flushing	1859
New York, Fordham and Bronx River	1883
New York, Fort Hamilton and Coney Island	1880
New York, Greenwood and Coney Island	1879
New York Harbor	1887
New York and Harlem	1831
New York and Hempstead	1871
New York and Hempstead Plains	1870
New York and Highland Suspension Bridge Company	1869
New York, Housatonic and Northern	1864
New York and Jamaica	1859
New York, Kingston and Syracuse	1872
New York, Lackawanna and Western	1880
New York and Lake Mahopac	1861
New York, Lake Erie and Western	1878
New York and Long Beach	1880
New York and Long Island	1887
New York, Long Island and Rockaway	1879
New York and Long Island Suburban	1891
New York and Mahopac	1871
New York and Manhattan Beach	1877
New York, Mapleton and Van Pelt Manor	1892
New York and Massachusetts	1887
New York and Newburgh	1854
New York and New England	1873
New York, New England and Northern	1893
New York, New Haven and Hartford	1872
New York and New Jersey	1873
New York and New Jersey Railway	1891
New York and New Jersey Terminal	1891
New York and New Jersey Tunnel	1883
New York, New Jersey and Eastern	1892
New York and New Rochelle	1852
New York Northern	1866
New York Northern	1880
New York Northern	1883
New York and Northern	1887
New York Northern Central	1865
New York and North Salem	1871
New York, Ontario and Western	1880
New York and Oswego Midland	1866
New York and Pennsylvania	1895
New York, Pennsylvania and Ohio	1880
New York, Pennsylvania and Western	1881
New York and Queens County Tunnel	1891
New York Quick Transit	1874
New York Railway	1871
New York, Richfield Springs and Cooperstown	1882
New York and Rockaway	1871
New York and Rockaway Beach	1876
New York and Rockaway Beach	1887
New York, Rockaway and Long Island	1880
New York, Rutland and Montreal	1883
New York and Sea Beach Railroad	1876
New York and Sea Beach Railway	1883
New York, Sea Beach and Coney Island	1878
New York and South Beach	1891
New York and South Side	1874
New York and South Mount Vernon	1892
New York State	1873
New York Suburban Railway	1886
New York Surface Railway	1886
New York and Troy	1852
New York Tunnel	1880
New York Underground	1880
New York Underground Extension	1874
New York, Utica and Ogdensburg	1870
New York and Westchester	1887
New York, Westchester and Boston	1872
New York, Westchester and Connecticut	1895
New York and Westchester County	1859
New York, Westchester and Putnam	1877
New York, Westchester and Putnam	1887
New York and Western	1853
New York Western Midland	1872
New York, West Shore and Buffalo	1880
New York, West Shore and Buffalo Railway	1881
New York, West Shore and Chicago	1870
New York, White Plains and Mamaroneck	1892
New York and White Plains	1871
New York, Woodhaven and Rockaway	1877
New York and Yonkers	1849
New York and Yonkers	1892
Niagara Bridge and Canandaigua	1858
Niagara Electric	1893
Niagara Falls	1871
Niagara Falls Branch	1875
Niagara Falls, Buffalo and New York	1852
Niagara Falls and Lake Ontario	1852
Niagara Falls and La Salle	1890
Niagara Falls and Lewiston	1849
Niagara Falls and Lewiston	1890
Niagara Falls and Suspension Bridge	1882
Niagara Falls and Whirlpool Railway	1886
Niagara Falls, Whirlpool and Northern	1894
Niagara Junction	1892
Niagara River	1852
Niagara River Street	1890
Niagara River and Erie	1889
Niagara River and New York Air Line	1872
Niagara Shore Terminal	1891
Niagara Street	1859
Ninth Avenue	1859
Ninth Street, Brooklyn Ferry and Suburban	1893
North and East Greenbush	1873
North and East Greenbush	1883
North and East River	1885
North and South Electric	1894
North New York City Traction	1895
Northern	1845
Northern Adirondack	1863
Northern Adirondack Extension	1886
Northern Air Line	1869
Northern Central New York	1867

Name of road.	When formed.
Northern Extension of Rochester, Nunda and Pittsburg	1872
Northern of New Jersey	1854
Northern New York	1870
Northern New York	1895
Northern New York Junction	1891
Northern Railroad Company of Long Island	1881
Northern Slackwater and Railroad Co	1846
North Mount Vernon	1892
North New York	1885
North Park	1872
North River	1880
North River	1881
North River and Wall Street Ferry	1862
North Second Street and Middle Village	1871
North Side of Long Island	1867
North Side Railroad Co. of Rochester	1887
North Side (Staten Island)	1871
North Shore	1863
North Shore of Long Island	1870
North Shore and Port Washington	1874
North Third and Fleetwood	1890
Norwood and Montreal	1884
Nostrand Avenue and Park	1870
Nyack and Northern	1868
Nyack Traction	1895
Oak Hill Iron	1880
Oataka Valley	1883
Ocean Bay and Sheepshead Bay Railway	1881
Ocean Palace Elevated	1877
Ocean Parkway Transit	1888
Ogdensburg	1857
Ogdensburg	1885
Ogdensburg, Clayton and Rome	1853
Ogdensburg and Lake Champlain	1864
Ogdensburg and Morristown	1871
Ogdensburg and Morristown	1877
Ogdensburg Street Railway	1885
Olean	1880
Olean, Bradford and Warren	1877
Olean Street	1880
Olean and Salamanca	1882
Old Forge	1894
Oneida	1885
Oneida Horse	1874
Oneida, Oneonta and New York	1889
Oneida Street	1887
Oneida Valley	1864
One Hundred and Fifty-fifth Street	1886
One Hundred and Sixteenth Street and Fort Lee Ferry	1885
One Hundred and Twenty-fifth Street	1871
Oneonta	1887
Oneonta and Earlville	1872
Oneonta and Earlville	1889
Oneonta and Otego Valley	1887
Oneonta and Richfield Springs	1889
Onondaga Lake	1890
Ontario Southern	1876
Orange County	1877
Orange County	1889
Oscawana and Cornell	1892
Ossining	1888
Ossining Electric	1893
Ossining Electric	1893
Ossining Street	1892
Oswego	1885
Oswego, Binghamton and New York	1855
Oswego City (Street)	1870
Oswego City and Town	1872
Oswego and Cortland	1836
Oswego Northern and Eastern	1853
Oswego and Rome	1863
Oswego and Syracuse	1839
Oswego and Syracuse	1892
Oswego and Troy	1854
Oswego and Utica	1836
Otis Elevating Railway	1885
Otsego	1832
Ottawa, St. Lawrence and Schenectady	1885

Name of road.	When formed.
Ottawa, Waddington and New York Railway and Bridge Company of New York	1884
Owasco River Railway	1891
Oyster Bay Extension	1886
Park Avenue	1870
Park Avenue	1882
Peekskill Valley	1885
Peekskill	1883
Peekskill and Cortlandt Electric	1894
Peekskill, State Camp and Mohegan	1894
Pelham Park	1884
Pelham and Port Chester	1872
Pelham and Travers Island	1889
Penfield and Canal	1837
Pennsylvania and Erie Coal and Railway Company	1875
Pennsylvania, Poughkeepsie and Boston	1887
Pennsylvania, Slatington and New England	1882
Pennsylvania and Sodus Bay	1870
Penn Yan and Geneva	1875
Penn Yan and New York	1877
People's	1880
People's (Brooklyn)	1893
People's Electric Street	1888
People's Rapid Transit	1888
People's Surface of Niagara Falls and Suspension Bridge	1891
People's Surface Railway	1885
People's, Syracuse	1887
People's Traction of City of New York	1895
Perry	1882
Perth Amboy	1885
Philadelphia, Honesdale and Albany	1860
Philadelphia, Honesdale and Albany	1868
Philadelphia, Reading and New England	1882
Piermont and Nyack	1864
Piermont and West Shore	1857
Pine Plains and Albany	1872
Pine Plains and Rhinebeck	1873
Pittsburg, Chautauqua and Lake Erie	1888
Pittsburg, Lackawanna and Northeastern	1883
Pittsburg, Titusville and Buffalo	1860
Pittsburg and Montreal	1850
Pittsburg and Rouse's Point	1851
Portage and Cuba Low Grade	1882
Port Byron and Auburn	1829
Port Chester and Tarrytown	1882
Port Chester and Rye Beach Street	1887
Port Chester, Rye and Mamaroneck Electric	1894
Port Chester, Rye and White Plains Electric	1895
Port Chester, White Plains and Tarrytown Street	1896
Port Dickinson and Chenango River	1861
Port Jervis Electric	1889
Port Jervis and Monticello	1875
Port Jervis, Monticello and New York	1888
Port Jervis and Suburban	1889
Port Morris and Westchester	1861
Port Richmond and Prohibition Park Electric	1891
Potsdam and Montreal	1861
Potsdam and Watertown	1852
Poughkeepsie Bridge	1889
Poughkeepsie City	1888
Poughkeepsie and Connecticut	1888
Poughkeepsie Connecting	1887
Poughkeepsie Bridge and Railroad	1882
Poughkeepsie and Delaware Valley	1887
Poughkeepsie and Eastern	1868
Poughkeepsie and Eastern	1883
Poughkeepsie Grand Junction	1879
Poughkeepsie and Grand Junction	1879
Poughkeepsie, Hartford and Boston	1875
Poughkeepsie, Hartford and New England	1887
Poughkeepsie and Hudson	1869
Poughkeepsie and Southeastern	1886
Poughkeepsie and Southwestern	1883

Name of road.	When formed.
Poughkeepsie Terminal	1887
Poughkeepsie and Wappingers Falls	1892
Poughkeepsie and Millbrook	1892
Poughkeepsie and New Hamburgh	1893
Prospect Park and Clarkson Street	1878
Prospect Park and Coney Island	1867
Prospect Park and Coney Island	1874
Prospect Park and Flatbush	1875
Prospect Park and Sea Side	1879
Prospect Park and South Brooklyn	1888
Putnam and Dutchess	1871
Queen City Street	1887
Queens County	1871
Queens Railway	1872
Racket River	1898
Raequette River	1895
Rapid Transit	1890
Rensselaerville and Berne	1869
Rensselaer and Saratoga	1832
Rhinebeck and Connecticut	1870
Rhinebeck and Rhinecliff	1893
Richfield Springs and Cherry Valley	1882
Richfield Springs and Otsego Lake	1866
Richfield Springs and Schuyler Lake	1895
Richmond County	1885
Riker Avenue and Sanford's Point	1886
River Bridge	1891
River and Valley Traction	1894
Rochester	1833
Rochester	1890
Rochester Cable	1887
Rochester and Canal	1831
Rochester and Charlotte	1836
Rochester and Charlotte	1881
Rochester and Charlotte Boulevard	1873
Rochester, Charlotte and Manitou	1895
Rochester City and Brighton	1862
Rochester Electric	1887
Rochester City and Brighton Terminal	1887
Rochester and Genesee Valley	1851
Rochester and Genesee Valley Canal	1879
Rochester and Glen Haven	1887
Rochester and Honeoye Valley	1888
Rochester, Hornellsville and Lackawanna	1886
Rochester, Hornellsville and Pine Creek	1872
Rochester and Irondequoit	1878
Rochester and Lake Beach	1888
Rochester and Lake Ontario	1852
Rochester and Lake Ontario	1879
Rochester, Lake Side and Braddocks Bay	1881
Rochester and Lockport	1837
Rochester, Lockport and Niagara Falls	1850
Rochester, New York and Pennsylvania	1880
Rochester, New York and Pennsylvania	1881
Rochester, Nunda and Pennsylvania	1870
Rochester, Nunda and Pennsylvania	1872
Rochester, Nunda and Pennsylvania Extension	1872
Rochester, Nunda and Pittsburg	1877
Rochester and Ontario Belt	1882
Rochester and Pine Creek	1870
Rochester and Pittsburg	1853
Rochester and Pittsburg	1881
Rochester and Pittsburg	1882
Rochester Southern	1895
Rochester and Southern	1852
Rochester and Southern	1881
Rochester and Southern	1895
Rochester State Line	1870
Rochester and Syracuse	1850
Rochester Terminal	1886
Rochester and Windsor Beach Railway	1881
Rochester and Irondequoit	1893
Rockaway Beach and Far Rockaway Marine	1879
Rockaway Beach Railroad	1871
Rockaway Beach Transit	1881
Rockaway and Brooklyn	1863
Rockaway Electric	1885
Rockaway Elevated	1878
Rockaway Railway	1871
Rockaway Surf	1880
Rockaway Village	1886
Rockland Central	1870
Rockland Central Extension	1872
Rockland Lake	1885
Rockland Lake and Valley Cottage	1882
Rome and Boonville	1882
Rome and Carthage	1888
Rome City	1885
Rome and Clinton	1869
Rome and Port Ontario	1837
Rome Street	1874
Rome and Sylvan Beach	1888
Rome, Watertown and Ogdensburg	1860
Rome, Watertown and Ogdensburg Terminal	1886
Rondout and Eddyville	1895
Rondout and Kingston	1863
Rondout and Oswego	1866
Rondout and Port Jervis Railroad	1865
Rondout and Southwestern	1895
Rondout Valley	1890
Roslyn and Huntington	1874
Rutland and Whitehall	1836
Rye Lake	1874
Rye and Westchester	1871
Sacandaga Valley	1871
Sacketts Harbor and Ellisburgh	1851
Sacketts Harbor, Rome and New York	1860
Sacketts Harbor and Saratoga	1852
Sacketts Harbor and Watertown	1855
Sackett Street	1866
St. Lawrence Valley	1873
St Nicholas Avenue and Crosstown	1885
Salamanca, Bedford and Allegany River	1881
Salamanca Electric Surface	1890
Salamanca and Warren	1881
Salina and Oakwood Railway	1846
Salina and Port Watson	1829
Saranac and Lake Placid	1890
Saratoga Electric	1889
Saratoga and Fort Edward	1832
Saratoga and Hudson River	1864
Saratoga Lake	1880
Saratoga Street	1887
Saratoga and Montgomery	1836
Saratoga and Mt. McGregor	1882
Saratoga, Mt. McGregor and Lake George	1882
Saratoga Rapid Transit	1890
Saratoga and Schenectady	1831
Saratoga, Schuylerville and Hoosac Tunnel	1870
Saratoga Springs and Schuylerville	1832
Saratoga and St. Lawrence	1885
Saratoga and St. Lawrence Extension	1891
Saratoga and Washington	1834
Saratoga and Whitehall	1855
Sauquoit Valley Electric Street	1890
Schenectady	1886
Schenectady	1895
Schenectady and Albany	1890
Schenectady, Albany and North Adams	1882
Schenectady and Catskill	1846
Schenectady and Catskill	1863
Schenectady City	1873
Schenectady and Duanesburgh	1873
Schenectady and Mechanicville	1867
Schenectady and Ogdensburg	1872
Schenectady and Ogdensburg Narrow Gauge	1882
Schenectady and Susquehanna	1846
Schenectady and Susquehanna	1869
Schenectady and Susquehanna	1870
Schenectady and Troy	1836
Schenectady and Utica Railway	1865
Schoharie and Otsego	1832
Schoharie Street	1872
Schoharie Valley	1865
Schoharie Valley	1874
Schoharie Valley Railway	1880

Name of road.	When formed.
Schuylerville and Fort Edward	1870
Schuylerville and Morean	1870
Schuylerville and Upper Hudson	1869
Schuylerville and Upper Hudson	1872
Scottsville and Canandaigua	1838
Scottsville and Le Roy	1836
Sea Beach and Brighton	1886
Sea Beach and Sheepshead Bay	1886
Sea Breeze Avenue	1881
Sea Cliff Inclined Cable	1885
Sea Side Elevated	1880
Sea Side and Brooklyn Bridge Elevated	1890
Sea Side Transit	1880
Sea View	1886
Sea View of Coney Island	1880
Second Avenue	1853
Sedge Bank	1876
Seneca County	1881
Seneca Falls and Cayuga Lake	1880
Seneca Falls, Restvale and Cayuga Lake Street	1886
Seneca Falls and Waterloo	1886
Seneca Lake Branch	1868
Seventh Ward Railway	1886
Sharon and Root	1838
Sheepshead Bay and Coney Island	1877
Sheepshead Bay and Sea Shore	1865
Sheepshead Bay and Coney Island	1892
Sherman Park and Westchester County	1894
Silver Creek and Dunkirk	1890
Silver Lake	18[illegible]0
Silver Lake	1877
Sixth Avenue	1851
Skaneateles	1836
Skaneateles	1866
Skaneateles and Jordan	1841
Smithtown and Port Jefferson	18[illegible]0
Sodus Bay and Corning	1872
Sodus Bay, Corning and New York	1870
Sodus Bay and Southern	1883
Sodus Point and Southern	1852
South Beach	1889
South Avenue Surface	1890
South Brooklyn	1878
South Brooklyn and Bergen Street	1863
South Brooklyn and Flatbush	1866
South Brooklyn Central	1877
South Brooklyn Central	1887
South Brooklyn Railroad and Terminal	1887
South Brooklyn Street	1886
South Brooklyn and Park	1870
South Cairo and East Durham	1881
South Ferry	1874
South Ferry and Prospect Park	1874
South Ferry Railroad Company	1889
South Ferry and Sea Side Direct Transit	1881
South Park	1889
Southern Boulevard	1885
Southern Central	1866
Southern Hempstead Branch	1875
Southern of Long Island	1874
Southern New York	1895
Southern Westchester	1871
Southfield Branch	1868
South Side Connection	1868
South Side of Long Island	1861
Speers' Quick Transit	1879
Springville and Sardinia	1878
Spuyten Duyvil and Port Morris	1867
Squaw Island	1884
State Line and Eastern	1879
State Line and Stony Point	1886
Staten Island	1836
Staten Island	1852
Staten Island	1873
Staten Island Belt Line	1887
Staten Island Central	1871
Staten Island Electric	1894
Staten Island Horse	1866
Staten Island Interior	1894
Staten Island Northern	1886
Staten Island North and South Shore	1881
Staten Island Rapid Transit	1889
Staten Island Sea Beach	1869
Staten Island Shore	1864
Staten Island Shore	1869
Staten Island Terminal	1863
Staten Island Terminal Electric	1895
Steinway (Long Island City)	1892
Steinway Avenue and Bowery Bay	1893
Steinway and Hunter's Point	1874
Steinway and Hunter's Point	1883
Sterling Mountain	1864
Stillwater and Mechanicville	1882
St. Lawrence	1892
St. Lawrence and Adirondack	1891
St. Regis and Salmon River	1892
Stony Clove and Catskill Mountain	1881
Suburban Rapid Transit	1875
Suburban Traction	1892
Suspension Bridge and Erie Junction	1868
Susquehanna Valley Electric Traction	1893
Syracuse	1886
Syracuse	1883
Syracuse and Baldwinsville	1886
Syracuse and Binghamton	1857
Syracuse, Binghamton and New York	1857
Syracuse, Binghamton and New York	1885
Syracuse Branch New York, Utica and Ogdensburg	1871
Syracuse and Chenango	1873
Syracuse and Chenango Valley	1868
Syracuse and East Side	1894
Syracuse, Chenango and New York	1877
Syracuse Connecting Railway	1886
Syracuse Consolidated Street	1890
Syracuse, Cortland and Binghamton	1836
Syracuse, Eastwood Heights and DeWitt	1889
Syracuse Electric	1890
Syracuse, Fayetteville and Manlius	1867
Syracuse and Geddes	1863
Syracuse, Geneva and Corning	1875
Syracuse, Geneva and Corning	1885
Syracuse Junction	1873
Syracuse Mineral Springs	1867
Syracuse Northern	1868
Syracuse and Northern	1885
Syracuse and Northwestern	1869
Syracuse and Northwestern	1874
Syracuse and Onondaga	1836
Syracuse and Onondaga	1863
Syracuse and Ontario	1882
Syracuse, Ontario and New York	1883
Syracuse and Oneida Lake	1891
Syracuse and Oneida Lake Electric	1895
Syracuse, Phœnix and Ontario	1883
Syracuse, Phœnix and Oswego	1872
Syracuse, Phœnix and Oswego	1885
Syracuse, Phœnix and Oswego	1886
Syracuse and Rochester Direct	1850
Syracuse and South Bay	1886
Syracuse and Southern	1854
Syracuse and Southwestern	1876
Syracuse and Southwestern	1877
Syracuse and Suburban	1895
Syracuse Stone	1836
Syracuse and Utica	1836
Syracuse, Union Street	1888
Syracuse Utica Direct	1853
Tenth Avenue and Grand Street	1880
Terminal (of Buffalo)	1895
Terminal Underground	1886
Terminal Union	1889
Third Avenue	1853
Third Avenue and Fordham	1891
Third Street (Newburgh)	1897
Third Ward Railway	1886
Thirty-eight and Thirty-ninth Streets Crosstown	1884
Thirty-first Street	1885

Name of road.	When formed.
Thirty-fourth Street	1884
Thirty-fourth Street Ferry and Eleventh Avenue	1885
Thirty-second Street	1880
Tillie Foster Mine	1889
Ticonderoga	1889
Tioga and Erie	1866
Tioga and Savonia	1875
Tivoli Hollow	1893
Tonawanda	1832
Tonawanda, Genesee Valley and Pine Creek	1882
Tonawanda Electric	1890
Tonawanda Street	1890
Tonawanda Valley	1880
Tonawanda Valley and Cuba	1881
Tonawanda Valley and Cuba	1881
Tonawanda Valley Extension	1881
Tonawanda, Wiscoy and Genesee Valley	1882
Transit	1872
Trenton and Sacketts Harbor	1837
Troy and Albia	1866
Troy and Averil Park	1886
Troy and Bennington	1851
Troy and Boston	1819
Troy and Chatham	1882
Troy City	1867
Troy and Cohoes	1862
Troy and Greenbush	1845
Troy and Lansingburgh	1860
Troy and Lansingburgh	1880
Troy and New England	1889
Troy and Rutland	1849
Troy and Saratoga	1871
Troy, Saratoga and Northern	1886
Troy and Stockbridge	1836
Troy and Susquehanna	1871
Troy Turnpike and Railroad	1831
Troy Union	1851
Troy and Utica	1853
Tunnel Extension	1882
Twenty-eighth and Thirtieth Street	1884
Twenty-eighth and Twenty-ninth Streets Crosstown	1885
Twenty-third Street	1869
Twenty-third Street	1872
Twenty-third Street Ferry and Newtown	1893
Twenty-third Street District Railway	1885
Tyrone and Geneva	1837
Ulster County	1836
Ulster County Electric	1895
Ulster and Delaware	1875
Unadilla and Schoharie	1836
Unadilla Valley	1890
Union	1851
Union (Buffalo)	1869
Union (New York city)	1892
Union Electric of Saratoga	1890
Union Elevated	1886
Union Passenger Railway and Transportation Company of New York	1885
Union Pneumatic Railway	1867
Union Railroad Company	1857
Union Street	1890
Union of the City of Brooklyn	1884
Union (Syracuse)	1852
Union and Syracuse Straight Line	1852
Union Terminal of the City of Buffalo	1884
Union Village and Johnsonville	1867
Union (of Westchester)	1859
United States and Canada	1883
United States and Canada	1888
United States Harvey-way Construction Company	1882
Upper Hudson	1872
Uptown Fifth Avenue	1885
Utica, Adirondack and Saratoga	1888
Utica Belt Line	1886
Utica and Binghamton	1853
Utica and Black River	1861
Utica and Black River	1883
Utica and Black River	1886
Utica, Chenango and Cortland	1870
Utica, Chenango and Susquehanna Valley	1866
Utica City	1862
Utica, Clinton and Binghamton	1868
Utica and Deerfield Street	1871
Utica and Fair-ground	1875
Utica, Georgetown and Elmira	1870
Utica and Herkimer Street	1894
Utica, Horseheads and Elmira	1870
Utica and Ilion Narrow Gauge	1877
Utica, Ithaca and Elmira	1872
Utica, Ithaca and Elmira Railway Co	1878
Utica and Mohawk	1874
Utica and Mohawk (Street)	1869
Utica and Schenectady	1833
Utica and Susquehanna	1832
Utica and Syracuse Air Line	1880
Utica and Syracuse Railway	1865
Utica and Unadilla Valley	1888
Utica and Waterville	1854
Utica and Waterville	1867
Valatie and Kinderhook Street	1889
Van Nest, West Farms and Westchester Traction	1892
Valley	1869
Van Brunt Street and Erie Basin	1861
Waddington, Canton and Southern	1894
Wakefield and Westchester Traction	1892
Walden and Orange Lake	1894
Wall Street Ferry	1888
Wallkill Valley	1877
Wallkill Valley Railway	1866
Warren County	1832
Warren Sugar Grove and Mayville	1885
Warsaw and Le Roy	1854
Warwick	1837
Warwick Valley	1860
Washington Bridge, Tremont and Westchester	1890
Washington County	1887
Washington County Central	1855
Washington Street, Asylum and Park	1887
Washington Street and State Asylum	1872
Water and Clinton Street	1873
Waterford and Cohoes	1863
Waterford and Cohoes	1883
Waterloo, Seneca Falls and Cayuga Lake	1894
Waterport, Electric Light and Power and Railroad	1895
Watertown and Brownville Street	1890
Watertown and Cape Vincent	1836
Watertown and Rome	1832
Watertown Street Railway	1887
Watervliet and Schenectady	1836
Watervliet Turnpike and Railroad	1862
Watkins and Havana Street	1872
Watkins and Havana	1895
Waverly and State Line	1867
Waverly, Sayre and Athens Traction	1894
Wellsville, Bolivar and Eldred	1881
Wellsville, Coudersport and Pine Creek	1882
Wellsville and Fillmore	1882
Wellsville, Honeoye and Ceres	1882
West Brooklyn	1887
West Brooklyn Electric	1890
West Davenport	1891
Westchester	1863
Westchester County	1856
Westchester County	1878
Westchester County	1884
Westchester County Central Electric	1895
Westchester County and New York City	1860
Westchester Electric	1891
Westchester and Putnam	1891
Westchester Railway	1881
Westchester and Long Island Tunnel	1893
Westchester and Williamsbridge Traction	1895
West End and Glenwood	1876
West Farms and Westchester Traction	1892

Name of road.	When formed.
Western New York and Pennsylvania	1887
Western New York	1895
Western New York and Pennsylvania	1895
Westfield and Chautauqua	1886
Westport and Kingdom	1868
West Shore	1863
West Shore	1885
West Shore Hudson River	1868
West Shore and International Bridge	1882
West Side	1854
West Side	1887
West Side (Elmira)	1891
West Side Elevated Patent Railway	1868
West Side (New York)	1892
West Side of Rochester	1887
West Side and Yonkers Patent	1866
West Troy and Green Island	1870
West Water Street	1890
Williamsport and Binghamton	1887
Wilson Terminal	1889
Wharton Valley	1888
Whitehall and Plattsburgh	1853
Whitehall and Plattsburgh	1866
Whitehall and Rutland	1833
Whitestone and Westchester	1872
Whitestone and College Point	1893
Williamsbridge, Woodlawn and Westchester	1891
Williamsbridge and Westchester Traction	1892
Williamsburgh and Coney Island	1864
Williamsburgh and Flatbush	1866
Williamsburgh and Newton	1866
Williamsport and Elmira	1850
Williamstown and Redfield	1865
Windsor Beach and Ontario	1887
Woodlawn and Butternut	1886
Yates Avenue and Flatbush	1890
Yonkers	1873
Yonkers	1865
Yonkers Electric	1894
Yonkers, Mt. Vernon, Pelham and New Rochelle	1891
Yonkers and New York	1864
Yonkers Rapid Transit	1879
Yonkers Street	1886
Youngstown and Buffalo	1886

Directions Governing the Making of Annual and Quarterly Reports by the Street Surface Railroads, Required by the Laws of this State.

It having become apparent, owing to the change in methods of operation of street surface railroads, that the prevailing system of accounting was inadequate, the Secretary of the Board was directed, in January, 1895, to confer with the accountants of street surface railroads in the preparation of a new system of street surface railroad accounting. Several meetings were held, all of which were largely attended by representatives of the various street surface railroads of the State, who not only manifested much interest in the proposed changes, but a willingness to co-operate with the Board in any manner that would secure something like uniformity in the system of accounting. The result of these conferences was the preparation of a new street surface railway blank, and the formulation of rules for accounting and reporting thereon. The report of the Secretary was submitted to the Board on March 5th, and unanimously approved, and the following directions were ordered issued governing the making of annual and quarterly reports by the street surface railroads of the State, to become operative on and after the 30th day of June, 1895:

STATE OF NEW YORK,
OFFICE BOARD OF RAILROAD COMMISSIONERS,
ALBANY, *March* 15, 1895.

The directions herewith presented governing the making of annual and quarterly reports by street surface railroad corporations, are designed to secure uniformity in the accounting of such operations.

This classification and distribution of accounts was adopted by the Board on March 5, 1895, and you are required to conform thereto in the compilation of the annual reports for the fiscal year ending June 30th. Careful observance of the directions given will avoid the necessity of returning for correction, reports once filed. Where there is nothing to report under any of the headings, indicate that fact by the use of a cipher, that it may be understood the item has not been overlooked.

The blank forms upon which the reports are to be made, cover the operations of cable, electric and horse roads.

In making quarterly reports for quarters ending March 31st, June 30th, September 30th and December 31st, each year, observe the explanations as given under similar headings for annual reports, only that the statement of earnings, etc., will be for three months, and the general balance

sheet will show the ledger balances on the date of the close of each quarter. Under "Deductions from Income" enter one quarter's proportion of the annual amount of interest on funded debt and rentals of leased lines and an estimate, where not known, of taxes based on the amount paid for previous year, and observe carefully that dates and percentages are filled in as called for.

Companies operating as lessees must make full report of the operations of all leased roads when the same is not included in their own report.

Lessor companies must fill in "History of Organization," Tables A and B, and such portion of other tables as are applicable.

Companies whose railroads are projected or are partly or wholly constructed, but not in operation, must fill in all tables as far as possible. The fact that the road is not in operation does not excuse the company from making an annual report.

The law in relation to the filing of annual reports requires that they shall be filed in the office of the Board on or before September 1st. The penalty for failure to file a report within the time fixed by law is a fine of $250 and $25 a day for each day after September 1st on which there is neglect to file the same. The Board of Railroad Commissioners may extend the time limited, for cause, but unless application is made and time extended as provided, it is the duty of the Board to see that the penalty is enforced.

By order of the Board.
CHARLES R. DEFREEST,
Secretary.

HISTORY OF ORGANIZATION, CONSTRUCTION, CONSOLIDATION AND LEASING.

Under this heading give a concise but complete history of the organization. Give the date of organization; date when road began operations; date of consolidation with or acquisition of other companies, with details of same; date of change of motive power; details of increase in stock, or issue of bonds, if any, and for what purpose.

In case of leases, state particularly the conditions, consideration, date of commencement and term of lease; the amount of rental and how and when payable. State terms under which additions and betterments are to be made by lessee on lessor roads.

If road was purchased, state price, length of purchased road and whether equipped or not. If whole or part of road was built by contract, state price, number of miles so built, and whether or not equipment was included.

TABLE A.

CAPITAL STOCK AND FUNDED DEBT.

Report only par value of stock and bonds of lines owned, giving complete details; when bonds were issued and for what term of years; rate of interest and when payable.

In the case of leased lines, these particulars must be reported by the lessors.

TABLE B.

COST OF ROAD AND EQUIPMENT.

Too much care cannot be exercised in making charges to these accounts, and no expenditure should be charged here, except for actual construction and equipment on lines owned. In the case of the conversion of a horse road to a road operated by mechanical power, the cost of such conversion, less the amount realized from the sale or value of equipment and material rendered useless by the change, must be charged to this account. After the conversion, and in the case of a road still operated wholly or in part by horses, nothing must be charged to construction and equipment which is expended to make good depreciation.

No expenditures made by lessees in improvements and betterments on leased lines for which the lessees are to be reimbursed by the lessors, must be included by the lessees in expenditures for improvements on their own road, but must be reported to the lessor company at the close of the year and included in its report as advances for additions and betterments made by the lessee company. A separate account must be kept of "Additions and Betterments on Leased Lines," and the expenditure on this account must be reported in detail for the current year under the schedule on page 6, "Additions and Betterments on Leased Lines." If any balance remains unpaid at the end of the year, as will appear from the schedule above mentioned, it must be carried as an "asset" in the General Balance Sheet, as the amount due from Lessor Companies for advances for "Additions and Betterments on Leased Lines."

The lessor company must include the total amount claimed by the lessee company to have been expended on the lessor road in detail as reported under "Additions and Betterments on Leased Lines" and must carry as a liability in the general balance sheet the amount due the lessee.

The sub-headings under Table B indicate generally by their titles what expenditures are to be included under each. In detail they are as follows:

COST OF ROAD.

Track and Roadway Construction.

Includes all expense for labor and material in track and roadway construction; cost of rails, ties, supplementary wire, tie wires, and all electrical appliances, including the cost of distributing and laying the same—briefly, the entire cost of roadway and track, except as otherwise provided.

Overhead and Underground Construction.

Includes cost of poles and putting in place, cost of trolley, feeder and guard-wires, delivery and placing of same, and cost of all devices, together with labor for overhead construction in case of an electrical road, and the cost of cables and cable conduit in the case of a cable road.

Superintendence and Organization Expenses.

Includes salaries of superintendents of construction and assistants, wages of clerks and others in the offices of this department, and all office expenses; also, all expenses of organization not otherwise provided for.

Law Expenses.

Includes all law expenses in connection with rights of way, organization, franchises, etc., which must not be distributed through various other tems.

Engineering Expenses.

Includes wages and expense of engineers and draughtsmen on preliminary and construction work, together with the office expenses of this department.

Right of Way.

Includes salaries and expenses of agents, payments for rights of way, easements, franchises, etc.

Buildings and Fixtures Used in the Operation of Road.

Includes cost of land and buildings, power houses, car houses, stations, offices, storehouses, machine and repair shops, wharves, coal sheds, etc.; also, fixtures and improvements of same not otherwise provided for.

Real Estate Not Used in Operation of Road.

Includes all land and buildings not used in the actual operation of the road.

Interest and Discount Charged to Construction.

All interest and discount paid or received in connection with funds for construction should be charged or credited under this heading and not distributed through various other items.

Road Built by Contract.

Where contracts are made to construct either the whole or a portion of the road for a specified sum, and it is impossible to distribute said sum among the foregoing accounts, the charge should be made under this heading. If, however, equipment is included in the contract-price, the proportion paid for equipment must not be extended with "Cost of Road," but must be reported separately under "Equipment."

Purchase of Constructed Road.

When roads wholly or partly constructed are purchased for a specified sum, and it is impossible to distribute said sum among the foregoing accounts, charge under this heading the amount paid. If equipment is included in the purchase, the proportion paid on this account must be reported separately under "Equipment."

EQUIPMENT.

Power Station Equipment.

Include under this heading cost of plant exclusive of buildings. This must embrace engines, boilers, pumps, shafting, piping, belting, dynamos, and all other electrical or cable apparatus used in power stations.

Car Equipment.

The blank will be found to call for a separation of this account under the subdivisions "motors and cable cars" and "other than motors and cable cars," the total cost being extended. Under the heading "motors and cable cars" charge cost of cars built or purchased, including all electrical and cable appliances The other heading includes cars that are used as trailers and are not equipped with motors or cable appliances, and cars operated by horses.

Tools and Machinery.

Include under this heading cost of tools and machinery for repair shops, car houses, etc., and the expense of placing in position.

Horses and Rolling Stock other than Cars.

Include under this heading cost of snow plows, sweepers, wagons, trucks, and all rolling stock not included under "Car Equipment" or "Miscellaneous." In case the entire road is operated by mechanical power, the cost of horses and harness used in any way connected with the operation of the road should be included here.

Miscellaneous and Horse Car Equipment.

In case the road is operated wholly or in part by horses, enumerate under this heading, giving details, viz.: horses, stable equipment, dummy engines, and any other property not heretofore mentioned.

Purchase by Contract.

Include here proportion chargeable to equipment of road built or equipped wholly or in part by contract, in case it is impossible to distribute the cost among the foregoing accounts.

Purchased with Constructed Road.

Include here proportion chargeable to equipment in case equipment is included in the purchase of a constructed road, if it is impossible to distribute the cost among the foregoing accounts.

STATEMENT IN DETAIL OF ADDITIONS AND BETTERMENTS DURING THE YEAR.

Additions and Betterments.

If track and overhead construction, give number of miles and characteristics of work.

If stations or bridges, state where located and cost of each.

If equipment, state number and cost of each class.

When sundry small sums are expended for general work, include in one item under sundry expenditures.

The totals should agree with the totals of additions and betterments during the year as shown on page 5 of blank furnished.

Additions and Betterments on Leased Lines.

Report under this schedule amount expended in detail on account of "Additions and Betterments" on leased lines, for the current year. Add to the total the amount reported in the General Balance Sheet of the preceding year, as an "asset" under "Additions and Betterments on Leased Lines," and deduct from this total the amount received from lessor companies in settlement of this account during the year. The balance will be the amount reported in the General Balance Sheet as an "asset" for the current year, under "Additions and Betterments on Leased Lines."

TABLE C.

INCOME ACCOUNT.

Gross Earnings from Operation, as per Table D.

Include all earnings directly resulting from the operation of the road, viz.: cash fares, sale of tickets, chartered cars, mail, express and freight, all of which must be given in detail under the schedule in Table D.

Net Earnings from Operation.

The result of the deduction of operating expenses as per Table D from gross earnings from operation.

Income from Other Sources.

Include income from every source not mentioned above, viz.: advertising; rental of track; sale of power; rental of buildings or property; interest; dividends, and any revenue accruing from property not used for railroad purposes. Expense incurred in collecting such revenue or in repairs to property must be charged against the revenue derived and not against "operating expenses."

Gross Income from all Sources.

This represents the total income from operation and other sources, less operating expenses.

Deductions from Gross Income.

The items of taxes and interest are sufficiently explanatory in themselves. The extensions must include amount paid and the amount due and accrued in all cases.

In case of rentals of leased lines, extend the total amount paid, and the amount due and accrued in a single item and explain in detail under schedule on page 8.

Rental of track includes the total amount paid on this account.

Enumerate all other general expenses not clearly chargeable to operation.

In all cases give the total amount paid, and the amount due and accrued combined in a single item.

Net Income from all Sources.

The difference between "Gross Income from all Sources" and "Deductions from Gross Income."

Payments from Net Income.

Include under this heading dividends declared, whether paid or not, stating rate and on what amount at par value; if preferred or common stock.

All charges for improvements or investments or for any similar purpose, must be carried to specific accounts on the General Ledger, and no entry made here. Any other payments made from net income and charged to "Profit and Loss" at the close of the current year, must be entered in detail.

Surplus or Deficit for Year.

This is the net income, less the payments made therefrom, and charges thereto, and will show the balance carried to credit or debit of "Profit and Loss" on business of the current year.

Surplus or Deficit of Previous Years.

This is the balance at credit or debit of "Profit and Loss" at the beginning of the year for which the report is made, as shown by the report of the previous year, and must be combined with the surplus or deficit of the current year. Add to or deduct from this total any items, giving them in detail, which may have been carried direct to "Profit and Loss" during the year, such items to be only those which do not pertain specially to the current year, and the balance will be the surplus or deficit to be carried forward to the next fiscal year.

Total Surplus or Deficit.

This should agree with the amount at credit or debit of "Profit and Loss," as shown on the General Balance Sheet, Table E.

Schedule of Rental Accounts.

This schedule should show in detail the amounts paid to lessor roads on account of rental and the amounts added to the rental extended under "Deductions from Income," as due and accrued. The totals should agree with the total rental of leased lines deducted from income on page 7 of blank furnished.

TABLE D.

ANALYSIS OF GROSS EARNINGS AND OPERATING EXPENSES.

Earnings.

The amounts actually earned during the current year are to be entered here whether collected or not. For items not collected debits will appear against agents or others under "Current Assets" in the General

Balance Sheet. The following receipts must be included under this heading in detail: Cash fares, sale of tickets, chartered cars, freight, mail, express, and any other receipts resulting from the operation of the road.

Receipts from the sale of worn-out or useless material should be credited to the account to which the new material is charged. Interest, rents, etc., should be credited under "Income from other Sources." These and similar items are not earnings from operation.

Operating Expenses.

A material change is presented in the method of reporting operating expenses as to the division of expense. Four subdivisions are made of this account, two relating to operation and two to maintenance, and each of these is subdivided The General Ledger Accounts may include a greater number of subdivisions than are here enumerated, but they must be on the general line herein set forth, so that by the combination of several accounts the summary called for here may be readily given. The following fully explains the methods and detail of keeping the accounts of operating expenses:

GENERAL EXPENSES.

Salaries of General Officers and Clerks.

Include in this account the salaries of general officers, officials in charge of departments whose jurisdiction extends over the entire road, salaries of division superintendents and assistants, salaries of clerks in the general offices, clerks for heads of departments and all clerks not hereinafter mentioned.

Miscellaneous Expenses, General Office.

Include under this heading the expense of heat and light, wages of porters and messengers, telephone and telegraph service, office supplies, stationery of every kind, advertising and all miscellaneous expenses of the general office.

Insurance.

Include in this account cost of insurance on the property of the company.

Law Expenses.

Include salaries, fees and expenses of attorneys, witnesses' fees, and other law expenses.

Injuries and Damages.

Include cost of insurance and expenses on account of persons injured and property damaged, with payments of all claims for damages, wages of claim agents and others connected with the claim department. Lawyers' fees, law expenses and damages to company's property are not chargeable to this account.

Contingent Expenses.

Include miscellaneous expenses incident to the general management, not otherwise provided for.

TRANSPORTATION EXPENSES.

Car Service.

Include in this account wages of conductors, drivers, motormen and gripmen; starters and their assistants; inspectors; switchmen; superintendent of time tables, superintendents of conductors and their clerks; drivers, motormen and gripmen; cost of light and heat, also of lubricants and waste for cars; cost of repairs or rental of ticket punches and fare registers.

Car House Expenses.

Include wages of foremen, shifters, cleaners, oilers, wipers, inspectors' watchmen and laborers, except such as are employed on repairs; tools, light and heat of car houses.

Operation of Power House.

Include wages of all persons employed in the power house, except when making repairs; cost of water, or cost of pumping when the company furnishes the water; lubricants and waste for power house; cost of lighting and all supplies necessary for the operation of the power house, not otherwise provided for.

Fuel.

Charge to this account cost of fuel used in the power house and transportation charges on the same.

Stable Expenses.

In the case of a road operated wholly or in part by horses, include under this heading all stable expenses, except cost of provender.

Cost of Provender.

In the case of a road operated wholly or in part by horses, include under this heading cost of provender, including expense of grinding and delivery at stable. Credit the provender account with the amount received from the sale of manure.

Horse Shoeing.

Enter under this heading cost of horse shoeing in case of a road operated wholly or in part by horses.

Hired Power.

Cost of power when taken from other companies.

MAINTENANCE OF WAY AND BUILDINGS.

Repairs and Renewals of Tracks and Roadway Construction.

Embrace under this heading all expenditures on account of roadbed and track, including the cost of rails and ties and the cost of renewals of and repairs to paving. This account must combine the cost of renewing all electrical and cable appliances in connection with the track, and all wages of road-masters, track foremen, laborers, watchmen and others engaged in track repair and renewals; also cost of tools and such supplies as are necessary in the prosecution of this work, and the cost of delivering rails, ties and supplies to the place where they are to be used.

Repairs of Overhead or Underground Construction.

Include in this account the cost of all material, labor and supervision incident to the renewal or repair of overhead or underground construction.

Repairs and Renewals of Buildings.

This account includes the cost of repairs and renewals—labor and material—to all buildings, docks and wharves used in the operation of the road, and the stationary fixtures and furniture of the same not otherwise provided for; car houses and sheds, storehouses, car shops, repair shops, blacksmith and machine shops, power houses, coal sheds, stations and office buildings. Repairs of tracks in yard must be charged to roadbed and track, and repairs of overhead or cable construction in yards to "Overhead or Underground Construction."

Removal of Snow and Ice.

The expense of removing snow and ice must be charged under this heading.

MAINTENANCE OF EQUIPMENT.

Repairs of Cars.

Include under this heading the cost of all repairs and renewals—labor and materials—on car bodies, painting, varnishing, upholstering, reletering cars and car signs, repairs and renewals of trucks and brakes, brake shoes, axle boxes, springs, track brushes, snow scrapers, pilots, sand boxes, lamps, signal cord, and other car equipment; repairs and renewals of wheels and axles, and the cost of new cars taking the place of any that have become worn out.

Repairs of Electrical or Cable Equipment of Cars.

Include in this account all repairs and renewals of the electrical or cable equipment of cars, the cost of labor, also new motors or parts of motors, or new grip appliances to take the place of those worn out or damaged.

Repairs of Steam Plant.

Include under this heading repairs and renewals of the steam plant in the power house, including engines, boilers, pumps, shafting, belting, pipes and steam fitting.

Repairs of Electrical or Cable Plant.

Charge to this account all repairs to electrical or cable equipment in power houses and stations.

Repairs of Tools and Machinery.

Charge to this account repairs and renewals of tools and machinery in the shops of the company; also lubricants for the same.

Small tools, not shop fixtures, are chargeable to the account most benefited by their use.

Renewals of Horses.

In case of a road operated wholly or in part by horses, report renewals under this heading.

Renewals of Harness and Stable Equipment.

In case of a road operated wholly or in part by horses, enter under this heading cost of repairs and renewals of harness and stable equipment.

Miscellaneous Expenses.

Charge to this account all miscellaneous expense of maintenance and equipment not otherwise provided for and enter here in detail.

SALE OF USELESS AND WORN-OUT MATERIAL.

In all cases the true value of useless and worn-out material, equipment or supplies must be credited to the account to which it may have originally been charged, or to some other proper operating account, and the difference between the debits and credits of these respective accounts must be extended as the expenditure for the year. The method of treating the charging of supplies is fully explained under "Assets," "Supplies on hand," in the General Balance Sheet, and if credit is taken for discarded material and equipment remaining on hand it must be entered under "Assets" in the General Balance Sheet in the manner provided.

CASH STATEMENT.

Report under this heading a statement of the actual cash on hand at the end of the preceding year; the actual cash received from all sources during the year; the actual cash payments on every account; and the balance will be the balance reported under "Assets" in the General Balance Sheet as "Cash on Hand," at the end of the year for which the report is made.

TABLE E.

GENERAL BALANCE SHEET.

The General Balance Sheet is a transcript of the General Ledger in a condensed form, and must show as "Assets" or "Liabilities" respectively the debit or credit balances of the various accounts as they appear at the close of each fiscal year.

ASSETS.

Cost of Road.

Cost of Equipment.

These accounts must include the total cost of construction and equipment as per Table B, the details of which are fully explained under the heading of Table B in these instructions.

Other Permanent Investments.

This must embrace under definite headings, "Stock of other Companies," "Bonds of other Companies," and investments in securities or property not used for railroad purposes and not included in Table B. If such securities or property are sold during the year the net profit or loss on such transaction must be carried to "Profit and Loss," so that the balance, if any, which may appear to the debit of these accounts on the General Ledger will show the actual cost of the securities or property on hand, and is to be entered under this heading.

Cash on Hand.

Under this heading show the total amount of cash in the hands of the treasurer and in bank or other depositories subject to draft.

Bills Receivable.

The balance of debit of bills receivable, representing the amount of obligations on hand, must be entered under this heading. All obligations given the company by debtors should be debited to this account and the account credited with the payments thereon.

Due by Agents.

The General Ledger must show, in separate account, the total amounts due by agents and conductors on account of traffic and the balance at debit of that account is to be entered under this heading.

Open Accounts.

This heading is to embrace the total of all debit balances of accounts with other companies and individuals not otherwise provided for.

Material and Supplies on Hand.

When supplies or material are purchased to be used in operation or construction, they must be charged to an account kept for that purpose. When the supplies or material are used or sold this account must be credited, and the operating or construction account for which they are used debited with the proper amount.

At the close of the year or oftener, if deemed necessary, the supplies on hand must be inventoried, and the cost value of the amount on hand must agree with the balance of this account, the credits to the account having been debited to the various accounts to which the supplies used belonged.

Additions and Betterments on Leased Lines.

Under this heading give the balance representing the difference between the amount expended in construction and equipment on leased lines and the amount received from the lessor company. It should agree with the balance as reported on page 6 of blank furnished.

Sinking Fund.

Any payments made under a provision of this nature should be charged to an account kept for the purpose, and whatever amount stands at debit of such account is to appear under this heading.

Sundries.

This account is to include the debit balances of General Ledger Accounts not otherwise provided for.

Profit and Loss (Deficiency).

All accounts pertaining to income should be closed into "Profit and Loss" at the end of each year by two entries, one showing income from all sources, and the other showing charges against such income, or, if preferred, the various accounts pertaining to income may be closed into one account, and the balance of that account carried to "Profit and Loss" each year.

Transactions requiring to be closed by "Profit and Loss" and not pertaining specially to the business of the current year should not be included in the entries made to close the business of each year, but should be carried direct to "Profit and Loss." If, after making all requisite entries, the account shows a debit balance, it should appear under this heading and must agree with the amount of the "Total Deficit," as shown on Table C (Income Account).

LIABILITIES.

Capital Stock.

Funded Debt.

These accounts on the General Ledger are to show, respectively, the par value of capital stock and bonds outstanding, and the balance at

credit of the same is to appear under these headings and must agree with the totals outstanding as shown on Table A (Capital Stock and Funded Debt).

Interest on Funded Debt, Due and Accrued.

Separate accounts should be kept showing interest due and accrued on each denomination of bonds outstanding. To these accounts should be credited monthly, whether due or not, one-twelfth of the annual interest on the bonds outstanding, debiting the same to an account called "Accrued Interest on Funded Debt," and at the end of each year close the latter account into "Profit and Loss." When the interest is paid, debit such payment to the denomination and series to which it belongs. The amount remaining at credit of these several accounts combined will show the amount due and accrued, and is to appear under this heading.

Dividends Unpaid.

When dividends are declared they should be credited to an account called "Dividends Payable," and debited to an account called "Dividends Declared," which latter account should be closed at the end of each year into "Profit and Loss." Payments made on account of dividends charge to "Dividends Payable." The amount remaining at credit of "Dividends Payable" will represent the amount unpaid, and should appear under this heading.

Loans.

This heading is to include the credit balances of money borrowed or obligations issued by the company not included in funded debt account.

Accounts Payable.

Include under this heading the credit balances of all accounts for material or supplies purchased and received, but not paid for, and all credit balances of accounts with other companies and individuals, except such sums as may be due Lessee Company for "Additions and Betterments," as shown by Schedule reported under Table B.

Due Lessee Company for "Additions and Betterments."

In case the corporation making this report is a Lessor Corporation, and any sum is claimed to be due by the Lessee for "Additions and Betterments," as provided by instructions under Table B, the amount claimed to be due must be reported under this heading.

Sundries.

This heading embraces the credit balances of General Ledger accounts not otherwise provided for.

Profit and Loss (Surplus).

See Profit and Loss under assets, and if credit balance is shown it must appear under this heading and agree with the total surplus, as is shown in Table C. (Income Account.)

CHARACTERISTICS OF ROAD AND EQUIPMENT.

Traffic and Mileage Statistics; Characteristics of Road and Equipment, and Salaries of Officers and other Employes are required under Tables F and G. The blank fully sets forth the information desired.

STATEMENT OF ACCIDENTS.

Under this heading include a statement of each accident, with details; place where it occurred; cause and extent of injuries inflicted and name of person injured; following which gave a recapitulation of accidents. Give also, in the form provided, the total amount of payments on account of injuries to passengers and employes, the amount paid by insurance companies and the amount paid by the company.

Under succeeding headings fill in carefully the information required.

THE FOLLOWING ARE THE RULES OF PROCEDURE ADOPTED BY THE BOARD IN MATTERS COMING BEFORE IT:

Complaints.

Complaints to the Board against railroad companies should be made in writing, and the cause of complaint should be stated clearly. Upon receipt of a complaint a copy is sent to the railroad company, and an answer must be made within ten days, unless longer time is allowed by the Board. A copy of the answer is sent to the complainant, and, if not satisfactory, issue is joined, a hearing had and a decision rendered.

Increase of Capital Stock.

(Section 46, Stock Corporation Law.)

Application must be made by verified petition. The Board requires:

First. Three certified copies of the proceedings of the meeting of the stockholders, two to be indorsed and one to be filed in this office.

Second. A sworn statement of the financial condition of the company as to the amount of the capital stock, outstanding indebtedness and the cost of road and equipment.

Third. A sworn statement of the purposes to which the proposed increase is to be devoted, and, if for further construction or equipment, an estimate of the cost thereof made by a person competent to make the same, and verified.

Reduction of Capital Stock.

(Section 46, Stock Corporation Law.)

Application must be made by verified petition. The Board requires:

First. Three certified copies of the proceedings of the meeting of the stockholders, two to be indorsed and one to be kept in this office.

Second. A sworn statement from the proper officer of the company that the reduced capital is sufficient for the proper purposes of the corporation and is in excess of its debts and liabilities, the aggregate amount of such debts and liabilities to be stated.

Increase of Reduction of Number of Shares of Stock.

(Section 56, Stock Corporation Law.)

Application must be made by verified petition. The Board requires:

First. Three certified copies of the proceedings of the meeting of the stockholders. two to be indorsed and one to be filed in this office.

Second. A statement of the reasons why it is proposed to increase or reduce the number of shares of stock.

Filing of Maps of Railroads.

(Section 6, Railroad Law.)

Section 6 of the Railroad Law shows in detail what is required.

Accommodation of Connecting Railroads.

(Section 35, Railroad Law.)

Application must be made by verified petition. The Board will in each case prescribe rules for proof in applications under this section.

Railroads Crossing Each Other at Grade.

(Section 36, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. As to the precedence of trains: The Board will in each case prescribe rules for proof in applications under this provision.

Second. In applications for approval of an interlocking switch and signal apparatus at such crossings, a hearing will be given at which a blue-print or sketch of the proposed system must be submitted to the Board which shall show distant signals at least 1,500 feet from the crossing (except where impracticable); home signals at the crossing, and throw-off switches (except where impracticable), all interlocked and operated from a tower.

Safety Devices.

(Section 50, Railroad Law.)

Application must be made by verified petition. Applications under this section will be considered under rules made for each case.

Cooking Stoves Used in Dining Cars.

(Section 51, Railroad Law.)

Application must be made by verified petition. In applications under this section for approval of cooking stoves in dining cars, the Board must see the stove proposed to be used, or a blue-print or sketch of it.

Cessation of Operation of Railroads during the Winter Months.

(Section 55, Railroad Law. See section 21, Railroad Law.)

Application must be made by verified petition. The Board will require notice of hearing on applications under this section to be advertised. Proof must be furnished that the road comes within the meaning of the section, and that the public interests will not suffer from the cessation of operations. If the application is granted, proof must be subsequently made that the order has been posted as required by section 55.

Fixing Compensation for Transportation of the Mails.

(Section 56, Railroad Law.)

Rules of procedure under this section w ll be formulated in each case.

Extension of Time in which to file Reports of Railroad Companies.

(Section 57, Railroad Law.)

Applications under this section must be accompanied by a statement of the reasons why an extension of time in which to file reports is necessary.

Certificate that Public Convenience and Necessity Requires the Construction of a New Railroad.

(Section 59, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. Proof of the publication of the articles of association of the company as required by section 59.

Second. Public notice of the application and hearing before the Board must be published in such form and in such newspapers as the Board shall direct.

Third. At the hearing, proof must be made (by affidavit or oral evidence, or both) that public convenience and necessity require the construction of the railroad.

Fourth. A map and survey of the line as proposed must be filed with the Board, in the case of a steam railroad.

Fifth. Proof must be made of the *bona fides* of the enterprise, and of the financial ability of the projectors to build the road.

Consolidation or Lease of Parallel and Competing Steam Railroads.

(Section 80, Railroad Law.)

Application must be made by verified petition. Rules for the consideration of applications under this section will be established by the Board in each case.

As to Liability of Reorganized Railroad Company to Extend Its Road.

(Section 83, Railroad Law.)

Application must be made by verified petition. Rules for the consideration of applications under this section will be established by the Board in each case.

Motive Power of Street Railroads.

(Section 100, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. Publication of notice of hearing on the application in such form and in such newspapers as the Board shall direct.

Second. At the hearing, affidavit or affidavits of an assessor or person connected with the taxing office or department in the locality, showing the total assessed value of the property bounded on that portion of the railroad with respect to which a change of motive power is proposed, and the value of the property the owners of which have consented to the use of the motive power, which must be at least one-half the total value of abutting property.

Third. In the case of new roads, proof of the consent of the local authorities to the construction of the road.

Use of Tracks of a Street Railroad.

(Section 102, Railroad Law.)

Rules for procedure under this section will be prescribed in each case.

Abandonment of Part of Route of a Street Surface Railroad.

(Section 103, Railroad Law.)

Application must be made by verified petition. The Board requires:

First. Two copies of the declaration of abandonment, adopted as required by the section.

Second. Notice of hearing on the application shall be published in such form and in such newspapers as the Board shall prescribe.

Third. Proof must be made by affidavit or oral evidence, or both, that the proportion of the route proposed to be abandoned is no longer necessary for the "successful operation of its road and convenience of the public."

Laying Street Railroad Track Across Steam Railroad Where There are Three or More Steam Railroad Tracks.

(Section 2, chapter 239, Laws 1893.)

Application must be make by verified petition. At the hearing the company making the application must furnish the Board with a map or sketch, showing the crossing and the locality surrounding it.

Exemptions and Extensions of Time Under the Act Compelling Equipment of Freight Cars and Locomotive Engines with Power Brakes.

(Section 6, chapter 543, Laws 1893.)

Application must be made by verified petition. The Board will require to be filed with it the affidavit of the proper officer of the company (general superintendent or general manager), showing the total number of freight cars and engines owned or leased by the company at the date of the application; the number that are equipped with power brakes; the number equipped during the preceding year; and reasons why exemption or extension of time is asked.

Exemptions and Extensions of Time Under the Act Compelling the Equipment of Freight Cars with Automatic Couplers.

(Section 6, chapter 544, Laws 1893.)

Application must be made by verified petition. The Board will require to be filed with it the affidavit of the proper officer of the company (general superintendent or general manager) showing the total number of freight cars owned or leased by the company at the date of the application; the number that are equipped with automatic couplers, the number equipped during the preceding year, and reasons why exemption or extension of time is asked.

Change of Gauge of Railroads.

(Chapter 267, Laws 1891.)

Application must be made by verified petition. The Board will require proof that stockholders owning three-fourths in amount of the capital stock of the company have voted at a special meeting called for that purpose in favor of changing the gauge of the railroad. Also such further information as it in each case shall designate.

Relative to Abandonment of Route by Elevated Railroads.

(Chapter 294, Laws 1891.)

Application must be made by verified petition. In applications under this act the Board will make rules in each case.

As to Lighting and Ventilating Tunnels.

(Chapter 360, Laws 1891.)

Rules for procedure under this act will be fixed in each case.

An Act to Amend Article Two of the Railroad Law, Relative to Grade Crossings.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. Article two of the railroad law is hereby amended by adding thereto the following sections:

§ 60. All steam surface railroads hereafter built must be so constructed as to avoid all public crossings at grade, except when authorized by the board of railroad commissioners to be otherwise built. Whenever application is made to the board of railroad commissioners under section 59 of the railroad law, or whenever an existing railroad desires to extend its lines or to construct additional switches or sidings before beginning such construction, there shall be filed with said board a map showing the streets, avenues and highways proposed to be crossed by the new construction, and the said board shall determine whether such crossings shall be at grade or otherwise. Whenever an application is made under this section to determine the manner of crossing, at grade or otherwise, except in the case of the construction of additional switches or sidings, the said board shall designate a time and place when and where a hearing will be given to such railroad company, and shall notify the municipal corporation having jurisdiction over such streets, avenues or highways proposed to be crossed by the new railroad. The said board shall also give public notice of such hearing in at least two newspapers published in the locality affected by the application, and all persons owning land adjoining the proposed railroad, or in the vicinity of the proposed crossings, shall have the right to be heard. The decision of the said board rendered in any proceedings under this section shall be communicated, within twenty days after final hearing, to all parties to whom notice of the hearing in said proceeding was given, or who appeared at said hearing by counsel or in person.

§ 61. When a new street, avenue or highway, or new portion of a street, avenue or highway shall hereafter be constructed across a steam surface railroad, such street, avenue or highway, or portion of such street, avenue or highway, shall pass over or under the railroad or at grade as the railroad commission shall direct, notice of intention to lay out such street, avenue or highway, or new portion of a street, avenue or highway, across a steam surface railroad, shall be given to said railroad company by the municipal corporation, at least fifteen days prior to the making of the order laying out such street, avenue or highway, by service personally on the president or vice-president of the railroad corporation or any officer thereof. Such notice shall designate the time and place and when and where a hearing will be given to such railroad company, and such railroad company shall have the right to be heard before the authorities of such municipal corporation upon the question of the necessity of such

highway. If the municipal corporation determine such highway to be necessary, it shall then apply to the board of railroad commissioners before any further proceedings are taken, to determine whether such street, avenue or highway, or new portion of such street, avenue or highway shall pass over, under or at the existing grade of such railroad, whereupon the said board of railroad commissioners shall appoint a time and place for hearing such application, and shall give notice thereof, as they judge reasonable, to the railroad company whose railroad is to be crossed by said new street, avenue or highway, or new portion of a street, avenue or highway, to the municipal corporation and to the owners of land adjoining the railroad and that part of the street, avenue or highway to be opened or extended. The said board of railroad commissioners shall determine whether such street, avenue or highway, or new portion of a street, avenue or highway, shall be constructed over, under or at the grade of such a railroad; and if said Board determine that such street, avenue or highway shall be carried across such railroad above grade, then said board shall determine the height, length and material of the bridge or structure by means of which such street, avenue or highway shall be carried across such railroad, and the length, character and grades of the approaches thereto; and if said board shall determine that such street, avenue or highway shall be constructed or extended below the grade, said board shall determine the manner and method in which the same shall be so carried under, and the grade or grades thereof, before the damages that may be occasioned to any person by the taking of land for such highway are finally assessed. The decision of the said board as to the manner and method of carrying such new street, avenue or highway, or new portion of a street, avenue or highway, across such railroad, shall be final. The decision of the said board rendered in any proceeding under this section shall be communicated within twenty days after final hearing to all parties to whom notice of the hearing in such proceeding was given or who appeared at said hearing by counsel or in person.

§ 62. The mayor and common council of any city, the president and trustees of any village, the town board of any town, within which a street, avenue or highway crosses or is crossed by a steam surface railroad at grade, or the directors of any steam surface railroad company, whose road crosses or is crossed by a street, avenue or highway at grade, may bring their petition in writing to the board of railroad commissioners, therein alleging that public safety requires an alteration in the manner of such crossing, its approaches, the method of crossing, the location of the highway or crossing, the closing of a highway crossing and the substitution of another therefor not at grade, or the removal of obstructions to the site at such crossing, and praying that the same may be ordered; whereupon the said board of railroad commissioners shall appoint a time and place for hearing the petition, and shall give such personal notice thereof as they shall judge reasonable to said petitioner, the railroad company, the municipality in which such crossing is situated, and to the owners of the lands adjoining such crossing and adjoining that part of the highway to be changed in grade, and shall cause notice of said hearing to be advertised in at least two newspapers published in the locality affected by the application; and after such notice and hearing, the said

board of railroad commissioners shall determine what alterations, changes or removals, if any, shall be made. The decision of the said board of railroad commissioners rendered in any proceeding under this section shall be communicated within twenty days after final hearing to all parties to whom notice of the hearing in said proceedings was given or who appeared at said hearing by counsel or in person. Any person aggrieved by such decision, or by a decision made pursuant to sections sixty and sixty-one hereof, and who was a party to said proceeding may appeal therefrom to the Appellate Division of the supreme court in the department in which such grade crossing is situated and to the court of appeals, in the same manner and with like effect as is provided in the case of appeals from an order of the supreme court.

§ 63. In carrying out the provisions of sections sixty, sixty-one and sixty-two of this act, the railroad company or the municipality may acquire land necessary therefor by condemnation and damages on account of carrying a street, avenue or highway over or under a railroad, shall be assessed in the manner provided by the condemnation law.

§ 64. When a highway crosses a railroad by an overhead bridge, the framework of the bridge and its abutments shall be maintaine l and kept in repair by the railroad company, and the surface of the bridge and its approaches shall be maintained and kept in repair by the municipality in which the same are situated. When a highway passes under a railroad, the bridge and its abutments shall be maintained and kept in repair by the railroad company, and the public way and its approaches shall be maintained and kept in repair by the city, village or town in which they are situated.

§ 65. Whenever, under the provisions of section sixty of this act, new railroads are constructed across existing highways, the expense of crossing above or below the grade of the highway shall be paid entirely by the railroad corporation whenever under the provisions of section sixty-one of this act a new street, avenue or highway is constructed across an existing railroad, the railroad corporation shall pay one-half and the municipal corporation wherein such street, avenue or highway is located shall pay the remaining one-half of the expense of such crossings above or below grade; and whenever a change is made in an existing crossing, of any character whatsoever, in accordance with the provisions of section sixty-two of this act, sixty two and one-half per cent. of the expense thereof shall be borne by the railroad corporation, twenty-five per cent. by the municipal corporation, and twelve and one-half per cent. by the State. In carrying out the provisions of sections sixty, sixty-one and sixty-two of this act, the work shall be done by the railroad corporations affected thereby, subject to the supervision and approval of the board of railroad commissioners, and in all cases, except where the entire expense is paid by the railroad corporation, the expense of construction shall be paid primarily by the railroad company, and the expense of acquiring additional lands or in the liquidation of damages to property, as provided in section sixty-three of this act, shall be paid primarily by the municipal corporation wherein such highways are located. Upon the completion of the work and its approval by the board of railroad commissioners, an accounting shall be had between the railroad corporation and the municipal corporation, and if it shall appear that the railroad corporation or the municipal corporation have expended more

than their proportion of the expense of the crossing, a settlement shall be forthwith made in accordance with the provisions of this section. All items of expenditure shall be verified under oath, and, in case of a dispute between the railroad corporation and the municipal corporation as to the amount expended, any judge of the supreme court in the judicial district in which the municipality is situated, may appoint a referee to take testimony as to the amount expended, and the confirmation of the report of the referee shall be final. In the event of the failure or refusal of the railroad corporation to pay its proportion of the expense, the same may be levied and assessed upon the railroad corporation and collected in the same manner that taxes and assessments are now collected by the municipal corporation within which the work is done; and in the event of the failure or refusal of the municipal corporation to pay its proportion of the expense, suit may be instituted by the railroad corporation for the collection of the amount remaining unpaid. The legislature shall annually appropriate out of any moneys not otherwise appropriated, the sum of one hundred thousand dollars, or so much thereof as may be necessary, for the purpose of paying the state's proportion of the expense of any change in any existing grade crossing, and if any less sum than one hundred thousand dollars is expended by the state for the aforesaid purpose in anv one year, the balance shall be applied to reduce the amount to be appropriated in the next succeeding year, but in no event shall the state expend a greater sum than one hundred thousand dollars in any one year. The state's proportion of the expense of changing any existing grade crossing shall be paid by the state treasurer upon the warrant of the comptroller, to which shall be appended the certificate of the board of railroad commissioners to the effect that the work has been properly performed, and statement showing the situation of the crossing that has been changed, the total cost and the proportionate expense thereof, and the money shall be paid in whole or in part to the railroad corporation or to the municipal corporation, as the board of railroad commissioners may direct.

§ 66. The railroad commissioners may, in the absence of any application therefor, when, in their opinion, public safety requires an alteration in an existing grade crossing, institute proceedings on their own motion for an alteration in such grade crossing, upon such notice as they shall deem reasonable to the railroad company, the municipal corporation and the person or persons interested, and proceedings shall be conducted as provided in section sixty-two of this act.

§ 67. It shall be the duty of the corporation, municipality or person or persons to whom the decisions and recommendations of the board of railroad commissioners are directed as provided in sections sixty, sixty-one, sixty-two and sixty-six of this act to comply with such decisions and recommendations of the board, and in case of their failure to do so the board shall present the facts in the case to the attorney-general, who shall thereupon take proceedings to compel obedience to the decisions and recommendations of the board of railroad commissioners. The supreme court, at special term, shall have the power in all cases of such decisions and recommendations by the board of railroad commissioners to compel compliance therewith by mandamus, subject to appeal to the Appellate

Division of the supreme court and the court of appeals, in the same manner, and with like effect, as is provided in case of appeals from any order of the supreme court.

§ 68. All street surface railroads hereafter constructed across a steam railroad shall be above or below grade at the expense of the constructing road. When an existing grade crossing is to be changed to an overhead or an underground crossing, pursuant to the provisions of section sixty-two of this article, and the highway is occupied in part by a street surface railroad twelve and one-half per cent. of the expense of making such change shall be borne by the state, twenty-five per cent. by the municipal corporation within whose limits the crossing is situated, and sixty-two and one-half per cent. by said steam and street surface railroads, each to bear such proportion of said sixty-two and one-half per cent. as shall be determined by commissioners to be appointed by the supreme court; but the street surface railroad is only to be charged with such proportion of sixty-two and one-half per cent. of the actual cost of the work within the limits of the street upon which its tracks are located.

§ 69. The city of Buffalo, in so far as it is affected by chapter three hundred and forty-five of the laws of eighteen hundred and eighty-eight, chapter two hundred and fifty-five of the laws of eighteen hundred and ninety, and chapter three hundred and fifty-three of the laws of eighteen hundred and ninety-two, is exempted from the provisions of section sixty-two of this act,

§ 2. This act shall take effect immediately.

LAWS APPLICABLE TO RAILROAD COMPANIES.

[COMPILED BY THE BOARD OF RAILROAD COMMISSIONERS.]

FIRST—CHAPTER 95, LAWS OF 1890, KNOWN AS THE "CONDEMNATION LAW."

SECOND—CHAPTER 563, LAWS OF 1890, KNOWN AS THE "GENERAL CORPORATION LAW."

THIRD—CHAPTER 564, LAWS OF 1890, KNOWN AS THE "STOCK CORPORATION LAW."

FOURTH—CHAPTER 565, LAWS OF 1890, KNOWN AS THE "RAILROAD LAW."

INCLUDING ALL AMENDMENTS TO SAID LAWS MADE BY THE LEGISLATURES OF 1891, 1892, 1893, 1894 AND 1895.

(Of the above-named acts the first went into effect May 1, 1890; the other three went into effect May 1, 1891.)

To these are appended such other laws of a general character, applicable to railroad companies and the management of their roads, as were in effect prior to May 1, 1891, and which are not in terms repealed by the provisions of any of the above-mentioned acts; including certain acts relative to "Town-Bonding" and "Taxation," contained in the compilation of laws heretofore published by the Board in volume 1 of its annual report. To the above have also been added the Rapid Transit Act (so-called), being chapter 4, Laws of 1891, and amendments to same, and the Interstate Commerce Act (so-called).

Chapter twenty-three of the Code of Civil Procedure.

CHAPTER 95, LAWS OF 1890.

AN ACT to amend the Code of Civil Procedure.

SUPPLEMENTAL PROVISIONS.

TITLE I.

PROCEEDINGS FOR THE CONDEMNATION OF REAL PROPERTY.

CONDEMNATION LAW.

SECTION 3357. This title shall be known as the condemnation law.

TERMS USED DEFINED.

§ 3358. The term "person" when used herein, includes a corporation, joint stock association, the state and a political division thereof, as well as a natural person; the term "real property," any right, interest or easement therein or appurtenance thereto; and the term "owner," all persons having any estate, interest or easement in the property to be taken, or any lien, charge or incumbrance thereon. The person instituting the proceedings shall be termed the plaintiff; and the person against whom the proceeding is brought, the defendant.

TITLE TO REAL ESTATE, HOW ACQUIRED.

§ 3359. Whenever any person is authorized to acquire title to real property, for a public use by condemnation the proceeding for that purpose shall be taken in the manner prescribed in this title.

PETITION TO SUPREME COURT; PETITION, WHAT TO CONTAIN.

§ 3360. The proceeding shall be instituted by the presentation of a petition by the plaintiff to the supreme court setting forth the following facts:

1. His name, place of residence, and the business in which engaged; if a corporation or joint stock association, whether foreign or domestic, its principal place of business within the state, the names and

places of residence of its principal officers, and of its directors, trustees or board of managers, as the case may be, and the object or purpose of its incorporation or associations;* if a political division of the state the names and places of residence of its principal officers; and if the state, the name and place of residence of the officer acting in its behalf in the proceeding.

2. A specific description of the property to be condemned and its location, by metes and bounds, with reasonable certainty.

3. The public use for which the property is required and a concise statement of the facts showing the necessity of its acquisition for such use.

4. The names and places of residence of the owners of the property; if an infant, the name and place of residence of his general guardian, if he has one, if not, the name and place of residence of the person with whom he resides; if a lunatic, idiot, or habitual drunkard, the name and place of residence of his committee or trustee, if he has one, if not, the name and place of residence of the person with whom he resides. If a non-resident, having an agent or attorney residing in the state authorized to contract for the sale of the property, the name and place of residence of such agent or attorney; if the name or place of residence of any owner cannot, after diligent inquiry, be ascertained, it may be so stated with a specific statement of the extent of the inquiry which has been made.

5. That the plaintiff has been unable to agree with the owner of the property for its purchase and the reason of such inability.

6. The value of the property to be condemned.

7. A statement that it is the intention of the plaintiff, in good faith, to complete the work or improvement, for which the property is to be condemned; and that all the preliminary steps required by law have been taken to entitle him to institute the proceeding.

8. A demand for relief, that it may be adjudged that the public use requires the condemnation of the real property described, and that the plaintiff is entitled to take and hold such property for the public use specified, upon making compensation therefor, and that commissioners of appraisal be appointed to ascertain the compensation to be made to the owners for the property so taken.

NOTICE OF PRESENTATION OF PETITION; SERVICE OF PETITION AND NOTICE.

§ 3361. There must be annexed to the petition a notice of the time and place at which it will be presented to a special term of the

* So in the original.

supreme court, held in the judicial district where the property or some portion of it is situated, and a copy of the petition and notice must be served upon all the owners of the property at least eight days prior to its presentation.

SERVICE, HOW MADE.

§ 3362. Service of the petition and notice must be made in the same manner as the service of a summons in an action in the supreme court is required to be made, and all the provisions of articles one and two of title one of chapter five of this act, which relate to the service of a summons, either personally or in any other way, and the mode of proving service, shall apply to the service of the petition and notice. If the defendant has an agent or attorney residing in this state, authorized to contract for the sale of the real property described in the petition, service upon such agent or attorney will be sufficient service upon such defendant. In case the defendant is an infant of the age of fourteen years or upwards, a copy of the petition and notice shall also be served upon his general guardian, if he has one, if not, upon the person with whom he resides.

DUTY OF GENERAL GUARDIAN, COMMITTEE OR TRUSTEE; COURT WHEN TO APPOINT GUARDIAN AD LITEM; WHEN ATTORNEY FOR DEFENDANT.

§ 3363. If a defendant is an infant, idiot, lunatic or habitual drunkard, it shall be the duty of his general guardian, committee or trustee, if he has one, to appear for him upon the presentation of the petition and attend to his interests, and in case he has none, or in case his general guardian, committee or trustee fails to appear for him, the court shall, upon the presentation of the petition and notice, with proof of service, without further notice, appoint a guardian ad litem for such defendant, whose duty it shall be to appear for him and attend to his interests in the proceeding, and, if deemed necessary to protect his rights, the court may require a general guardian, committee or trustee, or a guardian ad litem to give security in such sum and with such sureties as the court may approve. If a service other than personal has been made upon any defendant, and he does not appear upon the presentation of the petition, the court shall appoint some competent attorney to appear for him and attend to his interests in the proceeding.

APPEARANCE OF PARTIES; SERVICE OF PAPERS.

§ 3364. The provisions of the law and of the rules and practice of the court relating to the appearance of parties in person or by

attorney in actions in the supreme court, shall apply to the proceeding from and after the service of the petition, and all subsequent orders, notices and papers may be served upon the attorney appearing and upon a guardian ad litem in the same manner and with the same effect as the service of papers in an action in the supreme court may be made.

ANSWER TO PETITION.

§ 3365. Upon the presentation of the petition and notice with proof of service thereof, an owner of the property may appear and interpose an answer, which must contain a general or specific denial of each material allegation of the petition controverted by him, or of any knowledge or information thereof sufficient to form a belief, or a statement of new matter constituting a defense to the proceeding.

VERIFICATION OF PETITION AND ANSWER.

§ 3366. A petition or answer must be verified, and the provisions of this act relating to the form and contents of the verification of pleadings in courts of record, and the persons by whom it may be made, shall apply to the verification,

TRIAL OF ISSUE AND DECISION THEREON.

§ 3367. The courts shall try any issue raised by the petition and answer at such time and place as it may direct, or it may order the same to be referred to a referee to hear and determine, and upon such trial the court or referee shall file a decision in writing, or deliver the same to the attorney for the prevailing party, within twenty days after the final submission of the proofs and allegations of the parties, and the provisions of this act relating to the form and contents of decisions upon the trial of issues of fact by the court or a referee, and to making and filing exceptions thereto, and the making and settlement of a case for the review thereof upon appeal, and to the proceedings which may be had, in case such decision is not filed or delivered within the time herein required, and to the powers of the court and referee upon such trial, shall be applicable to a trial and decision under this title.

PROVISIONS APPLICABLE.

§ 3368. The provisions of title one of chapter eight of this act shall also apply to proceedings had under this title.

JUDGMENT, ENTRY OF; ETC.

§ 3369. Judgment shall be entered pursuant to the direction of the court or referee in the decision filed. If in favor of the defendant

the petition shall be dismissed, with costs to be taxed by the clerk at the same rates as are allowed, of course, to a defendant prevailing in an action in the supreme court, including the allowances for proceedings before and after notice of trial. If the decision is in favor of the plaintiff, or if no answer has been interposed and it appears from the petition that he is entitled to the relief demanded, judgment shall be entered, adjudging that the condemnation of the real property described is necessary for the public use, and that the plaintiff is entitled to take and hold the property for the public use specified, upon making compensation therefor, and the court shall thereupon appoint three disinterested and competent freeholders, residents of the judicial district embracing the county where the real property, or some part of it, is situated, or of some county adjoining such judicial district, commissioners to ascertain the compensation to be made to the owners for the property to be taken for the public use specified, and fix the time and place for the first meeting of the commissioners. Provided, however, that in any such proceeding instituted within the first or second judicial district, such commissioners shall be residents of the county where the real property, or some part of it, is situated, or of some adjoining county. If a trial has been had, at least eight days' notice of such appointment must be given to all the defendants who have appeared. The parties may waive, in writing, the provisions of this section as to the residence of the commissioners, and in that case they may be residents of any county in the state. Where owners of separate properties are joined in the same proceeding, or separate properties of the same owner are to be condemned, more than one set of commissioners may be appointed. (*Thus amended by chap. 530, Laws of 1895.*)

DUTY OF COMMISSIONERS; REPORT; COMPENSATION.

§ 3370. The commissioners shall take and subscribe the constitutional oath of office. Any of them may issue subpœnas and administer oaths to witnesses; a majority of them may adjourn the proceedings before them, from time to time, in their discretion. Whenever they meet, except by appointment of the court or pursuant to adjournment, they shall cause at least eight days' notice of such meeting to be given to the defendants who have appeared, or their agents or attorneys. They shall view the premises described in the petition, and hear the proofs and allegations of the parties, and reduce the testimony taken by them, if any, to writing, and after the testimony in each case is closed, they, or a majority of them, all being present, shall, without unnecessary delay ascertain and determine

the compensation which ought justly to be made by the plaintiff to the owners of the property appraised by them; and, in fixing the amount of such compensation, they shall not make any allowance or deduction on account of any real or supposed benefits which the owners may derive from the public use, for which the property is to be taken, or the construction of any proposed improvement connected with such public use. But in case the plaintiff is a railroad corporation and such real property shall belong to any other railroad corporation, the commissioners on fixing the amount of such compensation, shall fix the same at its fair value for railroad purposes. They shall make a report of their proceedings to the supreme court with the minutes of the testimony taken by them, if any; and they shall each be entitled to six dollars for services, for every day they are actually engaged in the performance of their duties, and their necessary expenses, to be paid by the plaintiff.

CONFIRMATION OF REPORT; REHEARING BEFORE COMMISSIONERS FINAL ORDER; DEPOSIT OF MONEY DEEMED PAYMENT.

§ 3371. Upon filing the report of the commissioners, any party may move for its confirmation at a special term, held in the district where the property or some part of it is situated, upon notice to the other parties who have appeared, and upon such motion, the court may confirm the report, or may set it aside for irregularity, or for error of law in the proceedings before the commissioners, or upon the ground that the award is excessive or insufficient. If the report is set aside, the court may direct a rehearing before the same commissioners, or may appoint new commissioners for that purpose, and the proceedings upon such rehearing shall be conducted in the manner prescribed for the original hearing, and the same proceedings shall be had for the confirmation of the second report, as are herein prescribed for the confirmation of the first report. If the report is confirmed, the court shall enter a final order in the proceedings, directing that compensation shall be made to the owners of the property, pursuant to the determination of the commissioners, and that upon payment of such compensation, the plaintiff shall be entitled to enter into the possession of the property condemned, and take and hold it for the public use specified in the judgment. Deposit of the money to the credit of, or payable to the order of the owner, pursuant to the direction of the court, shall be deemed a payment within the provisions of this title.

OFFER TO PURCHASE BY PLAINTIFF; NOTICE OF ACCEPTANCE OF OFFER; COST AND ALLOWANCES.

§ 3372. In all cases where the owner is a resident and not under legal disability to convey title to real property the plaintiff, before service of his petition and notice, may make a written offer to purchase the property at a specified price, which must within ten days thereafter be filed in the office of the clerk of the county where the property is situated; and which can not be given in evidence before the commissioners; or considered by them. The owner may at the time of the presentation of the petition, or at any time previously, serve notice in writing of the acceptance of plaintiff's order, and thereupon the plaintiff may, upon filing the petition, with proof of the making of the offer and its acceptance, enter an order that upon payment of the compensation agreed upon, he may enter into possession of the real property described in the petition, and take and hold it for the public use therein specified. If the offer is not accepted, and the compensation awarded by the commissioners does not exceed the amount of the offer with interest from the time it was made, no costs shall be allowed to either party. If the compensation awarded shall exceed the amount of the offer with interest from the time it was made, or if no offer was made, the court shall, in the final order, direct that the defendant recover of the plaintiff the costs of the proceeding, to be taxed by the clerk at the same rate as is allowed, of course, to the defendant, when he is the prevailing party in an action in the supreme court, including the allowances for proceedings before and after notice of trial and the court may also grant an additional allowance of costs, not exceeding five per centum upon the amount awarded. The court shall also direct in the final order what sum shall be paid to the general or special guardian, or committee or trustee of an infant, idiot, lunatic or habitual drunkard, or to an attorney appointed by the court to attend to the interests of any defendant upon whom other than personal service of the petition and notice may have been made, and who has not appeared, for costs, expenses and counsel fees, and by whom or out of what fund the same shall be paid. If a trial has been had, and all the issues determined in favor of the plaintiff, costs of the trial shall not be allowed to the defendant, but the plaintiff shall recover of any defendant answering the costs of such trial caused by the interposition of the unsuccessful defense, to be taxed by the clerk at the same rate as is allowed to the prevailing party for the trial of an action in the supreme court.

COMPENSATION AWARDED, ETC., TO BE DOCKETED AS A JUDGMENT; DELIVERY OF POSSESSION; ISSUE OF WRIT OF ASSISTANCE.

§ 3373. Upon the entry of the final order, the same shall be attached to the judgment roll in the proceedings, and the amount directed to be paid, either as compensation to the owners, or for the costs or expenses of the proceedings, shall be docketed as a judgment against the person who is directed to pay the same, and it shall have all the force and effect of a money judgment in an action in the supreme court, and collection thereof may be enforced by execution and by the same proceedings as judgments for the recovery of money in the supreme court may be enforced under the provisions of this act. When payment of the compensation awarded, and costs of the proceeding, if any, has been made, as directed in the final order, and a certified copy of such order has been served upon the owner, he shall upon demand of the plaintiff, deliver possession thereof to him, and in case possession is not delivered when demanded, the plaintiff may apply to the court without notice, unless the court shall require notice to be given, upon proof of such payment and of service of the copy order, and of the demand and noncompliance therewith, for a writ of assistance, and the court shall thereupon cause such writ to be issued, which shall be executed in the same manner as when issued in other cases for the delivery of possession of real property.

ABANDONMENT AND DISCONTINUANCE OF PROCEEDING.

§ 3374. Upon the application of the plaintiff to be made at any time after the presentation of the petition and before the expiration of thirty days after the entry of the final order, upon eight days' notice of motion to all other parties to the proceeding who have appeared therein or upon an order to show cause, the court may, in its discretion, and for good cause shown, authorize and direct the abandonment and discontinuance of the proceeding, upon payment of the fees and expenses, if any, of the commissioners, and the costs and expenses directed to be paid in such final order, if such final order shall have been entered, and upon such other terms and conditions as the court may prescribe; and upon the entry of the order granting such application and upon compliance with the terms and conditions therein prescribed, payment of the amount awarded for compensation, if such compensation shall have been theretofore awarded, shall not be enforced, but in such case, if such abandonment and discontinuance of the proceeding be directed upon the application of the plaintiff, the

order granting such application, if permitting a renewal of such proceedings, shall provide that proceedings to acquire title to such lands or any part thereof shall not be renewed by the plaintiff without a tender or deposit in court of the amount of the award and interest thereon. (*Thus amended by chap. 475, Laws 1894.*)

APPEAL FROM FINAL ORDER; STAY OF PROCEEDINGS.

§ 3375. Appeal may be taken to the general term of the supreme court from the final order, within the time provided for appeals from orders by title four of chapter twelve of this act; and all the provisions of such chapter relating to appeals to the general term from orders of the special term shall apply to such appeals. Such appeal will bring up for review all the proceedings subsequent to the judgment, but the judgment and proceedings antecedent thereto may be reviewed on such appeal, if the appellant states in his notice that the same will be brought up for review, and exceptions shall have been filed to the decision of the court or the referee, and a case or a case and exceptions shall have been made, settled and allowed, as required by the provisions of this act, for the review of the trial of actions in the supreme court without a jury. The proceedings of the plaintiff shall not be stayed upon such an appeal, except by order of the court, upon notice to him, and the appeal shall not effect his possession of the property taken, and the appeal of a defendant shall not be heard except on his stipulation not to disturb such possession.

APPEAL FROM JUDGMENT IN FAVOR OF DEFENDANT.

§ 3376. If a trial has been had and judgment entered in favor of the defendant, the plaintiff may appeal therefrom to the general term within the time provided for appeals from judgments by title four of chapter twelve of this act, and all the provisions of such chapter relating to appeals from judgments shall apply to such appeals; and on the hearing of the appeal the general term may affirm, reverse or modify the judgment, and in case of reversal may grant a new trial, or direct that judgment be entered in favor of the plaintiff. If the judgment is affirmed, costs shall be allowed to the respondent, but if reversed or modified, no costs of the appeal shall be allowed to either party.

NEW APPRAISAL.

§ 3377. On the hearing of the appeal from the final order the court may direct a new appraisal before the same or new commis-

sioners in its discretion, and the report of such commissioners shall be final and conclusive upon all parties interested. If the amount of the compensation to be paid is increased by the last report, the difference shall be a lien upon the land appraised, and shall be paid to the parties entitled to the same, or shall be deposited as the court shall direct; and if the amount is diminished, the difference shall be refunded to the plaintiff by the party to whom the same may have been paid, and judgment therefor may be rendered by the court, on the filing of the last report, against the parties liable to pay the same.

ADVERSE AND CONFLICTING CLAIMANTS TO MONEY.

§ 3378. If there are adverse and conflicting claimants to the money, or any part of it, to be paid as compensation for the property taken, the court may direct the money to be paid into the court by the plaintiff, and may determine who is entitled to the same, and direct to whom the same shall be paid, and may, in its discretion, order a reference to ascertain the facts on which such determination and direction are to be made.

POWER OF COURT TO PREVENT DISTURBANCE OF POSSESSION.

§ 3379. At any stage of the proceeding the court may authorize the plaintiff, if in possession of the property sought to be condemned, to continue in possession, and may stay all actions or proceedings against him on account thereof, upon giving security, or depositing such sum of money as the court may direct to be held as security for the payment of the compensation which may be finally awarded to the owner therefor and the costs of the proceeding, and in every such case the owner may conduct the proceeding to a conclusion, if the plaintiff delays or neglects to prosecute the same.

ENTRY UPON THE USE OF PROPERTY AFTER ANSWER HAS BEEN INTERPOSED.

§ 3380. When an answer to the petition has been interposed, and it appears to the satisfaction of the court that the public interests will be prejudiced by delay, it may direct that the plaintiff be permitted to enter immediately upon the real property to be taken, and devote it temporarily to the public use specified in the petition, upon depositing with the court the sum stated in the answer as the value of the property, and which sum shall be applied, so far as it may be necessary for that purpose, to the payment of the award that may be made, and the cost and expenses of the proceeding, and the resi-

due, if any, returned to the plaintiff, and in case the petition should be dismissed, or no award should be made, or the proceedings should be abandoned by the plaintiff, the court shall direct that the money so deposited, so far as it may be necessary, shall be applied to the payment of any damages which the defendant may have sustained by such entry upon and use of his property, and his costs and expenses of the proceeding, such damages to be ascertained by the court, or a referee to be appointed for that purpose, and if the sum so deposited shall be insufficient to pay such damages, and all costs and expenses awarded to the defendant, judgment shall be entered against the plaintiff for the deficiency, to be enforced and collected in the same manner as a judgment in the supreme court; and the possession of the property shall be restored to the defendant.

NOTICE OF PENDENCY OF PROCEEDINGS; EFFECT THEREOF; DUTY OF COUNTY CLERK.

§ 3381. Upon service of the petition, or at any time afterwards before the entry of the final order, the plaintiff may file in the clerk's office of each county where any part of the property is situated, a notice of the pendency of the proceeding, stating the name of the parties, and the object of the proceeding, and containing a brief description of the property affected thereby, and from the time of filing such notice shall be constructive notice to a purchaser, or incumbrancer of the property affected thereby, from or against a defendant with respect to whom the notice is directed to be indexed as herein prescribed, and a person whose conveyance or incumbrance is subsequently executed or subsequently recorded is bound by all proceedings taken in the proceeding after the filing of the notice to the same extent as if he was a party thereto. The county clerk must immediately record such notice when filed in the book in his office kept for the purpose of recording notices of pendency of actions, and index it to the name of each defendant specified in the direction appended at the foot of the notice, and subscribed by the plaintiff or his attorney.

POWER OF COURT TO MAKE ALL NECESSARY ORDERS, ETC.

§ 3382. In all proceedings under this title, where the mode or manner of conducting all or any of the proceedings therein is not expressly provided for by law, the court before whom such proceedings may be pending, shall have the power to make all necessary orders and give necessary directions to carry into effect the object and intent of this title, and of the several acts conferring authority to

condemn lands for public use, and the practice in such cases shall conform, as near as may be, to the ordinary practice in such court.

REPEAL.

§ 3383. So much of all acts and parts of acts as prescribe a method of procedure in proceedings for the condemnation of real property for a public use is repealed, except such acts and parts of acts as prescribe a method of procedure for the condemnation of real property for public use as a highway, or as a street, avenue, or public place in an incorporated city or village, or as may prescribe methods of procedure for such condemnation for any public use for, by, on behalf, on the part, or in the name of the corporation of the city of New York, known as the mayor, aldermen, and commonalty of the city of New York, or by whatever name known, or by or on the application of any board, department, commissioners or other officers acting for or on behalf or in the name of such corporation or city, or where the title to the real property so to be acquired vests in such corporation or in such city; and all proceedings for the condemnation of real property embraced within the exceptions enumerated in this section are exempted from the operation of this title. (*Thus amended by chap. 247, Laws of 1890.*)

TITLE, WHEN TO TAKE EFFECT.

§ 3384. This title shall take effect on the first day of May, one thousand eight hundred and ninety, and shall not affect any proceeding previously commenced.

TITLE II.

PROCEEDINGS FOR THE SALE OF CORPORATE REAL PROPERTY.

PROCEEDINGS ON APPLICATION TO SELL, MORTGAGE, ETC., PROPERTY.

SECTION 3390. Whenever any corporation or joint stock association is required by law to make application to the court for leave to mortgage, lease or sell its real estate, the proceeding therefor shall be had pursuant to the provisions of this title.

PETITION TO COURT; PETITION, WHAT TO CONTAIN; VERIFICATION.

§ 3391. The proceedings shall be instituted by the presentation to the supreme court of the district or the county court of the county where the real property, or some part of it, is situated, by

the corporation or association, applicant, of a petition setting forth the following facts:

1. The name of the corporation or association, and of its directors, trustees or managers, and of its principal officers, and their places of residence.

2. The business of the corporation or association, or the object or purpose of its incorporation or formation, and a reference to the statute under which it was incorporated or formed.

3. A description of the real property to be sold, mortgaged or leased, by metes and bounds, with reasonable certainty.

4. That the interest of the corporation or association will be promoted by the sale, mortgage or lease, of the real property specified, and a concise statement of the reasons therefor.

5. That such sale, mortgage or lease has been authorized, by a vote of at least two-thirds of the directors, trustees or managers of the corporation or association, at a meeting thereof, duly called and held, and a copy of the resolution granting such authority.

6. The market value of the remaining real property of the corporation or association, and the cash value of its personal assets, and the total amount of its debts and liabilities, and how secured, if at all.

7. The application proposed to be made of the moneys realized from such sale, mortgage or lease.

8. Where the consent of the shareholders, stockholders or members of the corporation or association, is required by law to be first obtained, a statement that such consent has been given, and a copy of the consent or a certified transcript of the record of the meeting at which it was given shall be annexed to the petition.

9. A demand for leave to mortgage, lease or sell the real estate described.

The petition shall be verified in the same manner as a verified pleading in an action in a court of record.

HEARING OF APPLICATION.

§ 3392. Upon presentation of the petition, the court may immediately proceed to hear the application, or it may, in its discretion, direct that notice of the application shall be given to any person interested therein, as a member, stockholder, officer or creditor of the corporation or association, or otherwise, in which case the application shall be heard at the time and place specified in such notice, and the court may in any case appoint a referee to take the proofs and report the same to the court, with his opinion thereon.

COURT MAY GRANT APPLICATION; APPEARANCE ON HEARING.

§ 3393. Upon the hearing of the application, if it shall appear, to the satisfaction of the court, that the interests of the corporation or association will be promoted thereby, an order may be granted authorizing it to sell, mortgage or lease the real property described in the petition, or any part thereof, for such sum, and upon such terms as the court may prescribe, and directing what disposition shall be made of the proceeds of such sale, mortgage or lease.

Any person, whose interests may be affected by the proceeding, may appear upon the hearing and show cause why the application should not be granted.

NOTICES TO CREDITORS ON APPLICATION OF INSOLVENT CORPORATION, ETC.

§ 3394. If the corporation or association is insolvent, or its property and assets are insufficient to fully liquidate its debts and liabilities, the application shall not be granted, unless all the creditors of the corporation have been served with a notice of the time and place at which the application will be heard.

SERVICE OF NOTICES.

§ 3395. Service of notices, provided for in this title, may be made either personally or, in case of absence, by leaving the same at the place of residence of the person to be served, with some person of mature age and discretion, at least eight days before the hearing of the application, or by mailing the same, duly enveloped and addressed and postage paid, at least sixteen days before such hearing.

POWER OF COURT TO MAKE ALL NECESSARY ORDERS.

§ 3396. In all applications made under this title, where the mode or manner of conducting any or all of the proceedings thereon are not expressly provided for, the court before whom such application may be pending, shall have the power to make all the necessary orders and give the proper directions to carry into effect the object and intent of this title, or of any act authorizing the sale of corporate real property, and the practice in such cases shall conform, as near as may be, to the ordinary practice in such court.

TITLE, WHEN TO TAKE EFFECT.

§ 3397. This title shall take effect May first, one thousand eight hundred and ninety, and shall not affect any proceeding previously commenced.

Proceedings to Change the Name of a Corporation.

PETITION BY CORPORATION.

§ 2411. A petition to assume another corporate name may be made by a domestic corporation, whether incorporated by a general or special law, to the supreme court at a special term thereof, held in the judicial district in which its principal business office shall be situated, or, if it be other than a stock corporation, at a special term, held in the judicial district in which its certificate of incorporation is filed or recorded, or in which its principal property is situated, or in which its principal operations are or theretofore have been conducted. If it be a banking, insurance or railroad corporation, the petition must be authorized by a resolution of the directors of the corporation, and approved, if a banking corporation by the superintendent of banks; if an insurance corporation, by the superintendent of insurance, and if a railroad corporation, by the Board of Railroad Commissioners. The petition to change the name of any other corporation must have annexed thereto a certificate of the secretary of state, that the name which such corporation proposes to assume is not the name of any other domestic corporation or a name which he deems so nearly resembling it, as to be calculated to deceive. (*Thus amended by chap.* 366, *Laws* 1893.)

CONTENTS OF PETITION.

§ 2412. The petition must be in writing, signed by the petitioner and verified in like manner as a pleading in a court of record, and must specify the grounds of the application, the name, age and residence of the individual whose name is proposed to be changed, and the name which he proposes to assume, and if the petitioner be a corporation, its present name, and the name it proposes to assume, which must not be the name of any other corporation, or a name so nearly resembling it as to be calculated to deceive; and if it be a railroad corporation, a corporation having banking powers or the power to make loans upon pledges or deposits, or to make insurances, that the petition has been duly authorized by a resolution of the directors of the corporation and approved by the proper officer. (*Thus amended by chap.* 366, *Laws* 1893.)

NOTICE OF PRESENTATION OF PETITION.

§ 2413. If the petition be to change the name of an infant, and is made by the infant's next friend, notice of the time and place at which the petition will be presented must be served upon the father, or if he is dead or cannot be found, upon the mother, or if both are dead or cannot be found, upon the general guardian or guardian of the person of the infant, in like manner as a notice of a motion upon an attorney in an action, unless it appears to the satisfaction of the court that the infant has no father or mother, or that both reside without the state or cannot be found, and that he has no guardian residing within this state, in which case the court may dispense with notice or require notice to be given to such persons and in such manner as the court thinks proper. If the petition be made by a corporation located elsewhere than in the city and county of New York, notice of the presentation thereof shall be published once in each week for six successive weeks in the state paper (at Albany in which notices by state officers are authorized by law to be published), and in a newspaper of every county in which such corporation shall have a business office, or if it has no business office, of the county in which its principal corporate property is situated or in which its operations are or theretofore have been principally conducted, which newspaper, if it be a banking corporation, shall be designated by the superintendent of banks, if an insurance corporation, by the superintendent of insurance, or if a railroad corporation, by the Railroad Commissioners. In the city and county of New York such notice shall be published once in each week for six successive weeks in two daily newspapers published in such county. (*Thus amended by chap. 264, Laws 1894.*)

ORDER.

§ 2414. If the court to which the petition is presented is satisfied thereby, or by the affidavit and certificate presented therewith, that the petition is true, and that there is no reasonable objection to the change of name proposed, and if the petition be to change the name of an infant, that the interests of the infant will be substantially promoted by the change, and, if the petitioner be a corporation, that the petition has been duly authorized and that notice of the presentation of the petition, if required by law, has been made, the court shall make an order authorizing the petitioner to assume the name proposed on a day specified therein, not less than thirty days after the entry of the order. The order shall be directed to be entered and the papers on which it was granted to be filed within ten

days thereafter in the clerk's office of the county in which the petitioner resides if he be an individual, or in the office of the clerk of the court of common pleas of the city and county of New York if the order be made by that court, or in the office of the clerk of the city court of New York if the order be made by that court, or, if the petitioner be a corporation, in the office of the clerk of the county in which its certificate of incorporation, if any, shall be filed, or if there be none filed, in which its principal office shall be located, or if it has no business office, in the county in which its principal property is situated, or in which its operations are or theretofore have been principally conducted, or in the office of the clerk of the county in which the special term granting the order is held; and if the petitioner be a corporation, that a certified copy of such order shall, within ten days after the entry thereof, be filed in the office of the secretary of state; and also, if it be a banking corporation, in the office of the superintendent of banks, or if it be an insurance corporation, in the office of the superintendent of insurance, or if it be a railroad corporation, in the office of the board of railroad commissioners. Such order shall also direct the publication, within ten days after the entry thereof of a copy thereof in a designated newspaper, in the county in which the order is directed to be entered, at least once if the petitioner be an individual, or if the petitioner be a corporation, once in each week for four successive weeks. The county clerk, in whose office an order changing the name of a corporation is entered, shall record the same at length in the book kept in his office for recording certificates of incorporation. (*Thus amended by chap. 366, Laws 1893.*)

WHEN CHANGE TO TAKE EFFECT.

§ 2415. If the order shall be fully complied with, and within forty days after the making of the order, an affidavit of the publication thereof shall be filed and recorded in the office in which the order is entered, and in each office in which certified copies thereof are required to be filed, if any, the petitioner shall, on and after the day specified for that purpose in the order, be known by the name which is thereby authorized to be assumed, and by no other name. No proceedings heretofore had under sections two thousand four hundred and fourteen and two thousand four hundred and fifteen of the code of civil procedure for the change of the name of a corporation, shall be invalid by reason of the non-filing of an affidavit of the publication of the order changing such name within twenty days from the date thereof. (*Thus amended by chap. 264, Laws 1894.*)

SUBSTITUTION OF NEW NAME IN PENDING ACTION OF PROCEEDING.

§ 2416. An action or special proceeding, civil or criminal, commenced by or against a person whose name is so changed shall not abate, nor shall any relief, recovery or other proceeding therein be prevented, impeded or impaired in consequence of such change of name. The plaintiff in the action or the party instituting the special proceeding, or the people, as the case requires, may, at any time, obtain an order amending any of the papers or proceedings therein, by the substitution of the new name, without costs and without prejudice to the action or proceeding. (*Thus amended by chap. 366, Laws 1893.*)

REPORTS BY CLERKS TO STATE OFFICERS.

§ 2417. The clerk of each county and of each court, shall annually, in the month of December, report to the secretary of state all changes of names of individuals or of corporations, which have been made in pursuance of orders filed in their respective offices during the past year and since the last previous report, and also report in like manner to the superintendent of banks all changes of the names of banking corporations, and to the superintendent of insurance all changes of names of corporations authorized to make insurances. The secretary of state must cause to be published, in the next volume of the session laws, a tabular statement showing the original name of each person and corporation and the name which he or it has been authorized to assume. (*Thus amended by chap. 366, Laws 1893.*)

CHAP. 687.

AN ACT to amend the general corporation law.

The general corporation law is amended to read as follows, to take effect immediately:

CHAPTER XXXV. OF THE GENERAL LAWS.

THE GENERAL CORPORATION LAW.

SECTION 1. Short title.
2. Classification of corporations.
3. Definitions.
4. Qualifications of incorporators.
5. Filing and recording certificates of incorporation.
6. Corporations of the same name prohibited.
7. Amended and supplemental certificates.
8. Lost or destroyed certificates.
9. Certificate and other papers as evidence.
10. Prohibition of other than statutory powers.
11. Grant of general powers.
12. Limitation of amount of property of a non-stock corporation.
13. Acquisition of additional real property.
14. Acquisition of property in other states.
15. Certificate of authority of a foreign corporation.
16. Proof to be filed before granting certificate.
17. Acquisition of real property in this state by certain foreign corporations.
18. Acquisition by foreign corporations of real property in this state upon judicial sales.
19. Prohibition of banking powers.
20. Qualification of members as voters.
21. Proxies.
22. Challenges.
23. Effect of failure to elect directors.
24. Mode of calling special election of directors.
25. Mode of conducting special election of directors.
26. Qualification of voters and canvass of votes at special elections.
27. Powers of supreme court respecting elections.
28. Stay of proceedings in actions collusively brought.
29. Quorum of directors and power of majority.
30. Directors as trustees in case of dissolution.
31. Forfeiture for non-user.
32. Extension of corporate existence.
33. Conflicting corporate laws.
34. Laws repealed.
35. Saving clause.

36. Construction.
37. Law revived.
38. When notice or lapse of time unnecessary.
39. As to acts of directors.
40. Alteration and repeal of charter.

SHORT TITLE.

SECTION 1. This chapter shall be known as the general corporation law.

CLASSIFICATION OF CORPORATIONS.

§ 2. A corporation shall be either,

1. A municipal corporation,
2. A stock corporation,
3. A non-stock corporation, or
4. A mixed corporation.

A stock corporation shall be either,

1. A moneyed corporation,
2. A transportation corporation, or
3. A business corporation.

A non-stock corporation shall be either,

1. A religious corporation, or
2. A membership corporation.

A mixed corporation shall be either,

1. A cemetery corporation,
2. A library corporation,
3. A co-operative corporation,
4. A board of trade corporation, or
5. An agricultural and horticultural corporation.

A transportation corporation shall be either,

1. A railroad corporation, or
2. A transportation corporation other than a railroad corporation.

A membership corporation shall include benevolent orders and fire and soldiers' monument corporations.

A reference in a general law to a class of corporations described in accordance with this classification shall include all corporations theretofore formed belonging to such class.

DEFINITIONS.

§ 3. 1. A municipal corporation includes a county, town, school district, village and city, and any other territorial division of the State, established by law with powers of local government.

2. A stock corporation is a corporation having a capital stock divided into shares, and which is authorized by law to distribute to the holders thereof dividends or shares of the surplus profits of the corporation. A corporation is not a stock corporation because of having issued certificates called certificates of stock, but which are in fact merely certificates of membership and which is not authorized by law to distribute to its members any dividends or share of profits arising from the operations of the corporation.

3. The term non-stock corporation includes every corporation other than a stock corporation.

4. A moneyed corporation is a corporation formed under or subject to the banking or the insurance law.

5. A domestic corporation is a corporation incorporated by or under the laws of the state or colony of New York. Every corporation which is not a domestic corporation is a foreign corporation, except as provided by the code of civil procedure for the purpose of construing such code.

6. The term directors, when used in relation to corporations, shall include trustees or other persons, by whatever name known, duly appointed or designated to manage the affairs of the corporation.

7. The term, certificate of incorporation, shall include articles of association or any other written instruments required by law to be filed, to effect the incorporation of a corporation, including a certified copy of an original certificate of incorporation filed for such purpose in pursuance of law.

8. The term, member of a corporation, shall include every person having a right to vote at a meeting of the corporation for the election of directors, other than a person having a right to vote only upon a proxy.

9. The term, office of a corporation, means its principal office within the state or principal place of business within the state, if it has no principal office therein.

10. The term, business of a corporation, when used with reference to a non-stock corporation, includes the operations for the conduct of which it is incorporated.

11. The term, corporate law or laws, when used in any law forming a part of the revision of the general laws of the state of which this chapter is a part, means the general laws of this state relating to corporations included in such revision. (*Thus amended by chap. 672, Laws of 1895.*)

QUALIFICATIONS OF INCORPORATORS.

§ 4. A certificate of incorporation must be executed by natural persons, who must be of full age, and at least two-thirds of them must be citizens of the United States and one of them a resident of this State. This section shall not apply to a corporation formed by the reincorporation or consolidation of existing corporations, or to the reorganization of a corporation upon the sale of the property and franchises of a previously existing corporation or otherwise. (*Thus amended by chap. 672, Laws of 1895.*)

FILING AND RECORDING CERTIFICATES OF INCORPORATION.

§ 5. Every certificate of incorporation and amended or supplemental certificate hereafter executed shall be in the English language, and except of a religious, cemetery, moneyed, municipal or fire department corporation, shall be filed in the office of the secretary of state, and shall be by him duly recorded and indexed in books specially provided therefor; and a certified copy of such certificate or amended or supplemental certificate with a certificate of the secretary of state of such filing and record, or a duplicate original of such certificate or amended or supplemental certificate shall be filed and similarly recorded and indexed in the office of the clerk of the county in which the office of the corporation is to be located, or, if it be a non-stock corporation, and such county be not determined upon at the time of executing the certificate of incorporation, in such county clerk's office as the judge approving the certificate shall direct. All taxes required by law to be paid before or upon incorporation, and the fees for filing and recording such certificate must be paid before filing. No corporation shall exercise any corporate powers or privileges until such taxes and fees have been paid. (*Thus amended by chap. 672, Laws of 1895.*)

CORPORATE NAMES.

§ 6. No certificate of incorporation of a proposed corporation having the same name as an existing domestic corporation, or a name so nearly resembling it as to be calculated to deceive, shall be filed or recorded in any office for the purpose of effecting its incorporation. A corporation formed by the reincorporation, reorganization or consolidation of other corporations or upon the sale of the property or franchises of a corporation, may have the same name as the corporation or one of the corporations to whose franchises it has succeeded. No corporation shall be hereafter organized under the laws of this State with the word bank, in-

surance, indemnity, guarantee or benefit as part of its name, except a corporation formed under the banking law or the insurance law. (*Thus amended by chap. 672, Laws of 1895.*)

AMENDED AND SUPPLEMENTAL CERTIFICATES.

§ 7. If in the original or amended certificate of incorporation of any corporation, or if in a supplemental certificate of any corporation any informality exist, or if any such certificate contain any matter not authorized by law to be stated therein, or if the proof or acknowledgment thereof shall be defective, the corporators or directors of the corporation may make and file an amended certificate correcting such informality or defect or striking out such unauthorized matter; and the certificate amended shall be deemed to be amended accordingly as of the date such amended certificate was filed, and upon the filing of such an amended certificate of incorporation, the corporation shall then for all purposes be deemed to be a corporation from the time of filing the original certificate.

The supreme court may, upon due cause shown, and proof made, and upon notice to the attorney-general, and to such other persons as the court may direct, and upon such terms and conditions as it may impose, amend any certificate of incorporation which fails to express the true object and purpose of the corporation, so as to truly set forth such object and purpose.

When an amended or supplemental certificate is filed, an entry shall be made upon the margin of the index and record of the original certificate of the date and place of record of every such amended certificate.

The amendment of a certificate under this section shall be without prejudice to any pending action or proceeding, or to any rights previously accrued.

LOST OR DESTROYED CERTIFICATES.

§ 8. If either of the certificates of incorporation shall be lost or destroyed after filing, a certified copy of the other certificate may be filed in the place of the one so lost or destroyed and as of the date of its original filing, and such certified copy shall have the same force and effect as the original certificate had when filed.

CERTIFICATE AND OTHER PAPERS AS EVIDENCE.

§ 9. The certificate of incorporation of any corporation duly filed shall be presumptive evidence of its incorporation, and any amended certificate or other paper duly filed or recorded relating to the

incorporation of any corporation, or its existence or management, and containing facts required or authorized by law to be stated therein, shall be presumptive evidence of the existence of such facts. (*Thus amended by chap. 672, Laws of 1895.*)

LIMITATION OF POWERS.

§ 10. No corporation shall possess or exercise any corporate powers not given by law, or not necessary to the exercise of the powers so given. The certificate of incorporation of any corporation may contain any provision for the regulation of the business and the conduct of the affairs of the corporation, and any limitation upon its powers, or upon the powers of its directors and stockholders, which does not exempt them from the performance of any obligation or the performance of any duty imposed by law. (*Thus amended by chap. 672, Laws of 1895.*)

GRANT OF GENERAL POWERS.

§ 11. Every corporation as such has power, though not specified in the law under which it is incorporated:

1. To have succession for the period specified in its certificate of incorporation or by law, and perpetually when no period is specified.

2. To have a common seal, and alter the same at pleasure.

3. To acquire by grant, gift, purchase, devise or bequest, to hold and to dispose of such property as the purposes of the corporation shall require, subject to such limitations as may be prescribed by law.

4. To appoint such officers and agents as its business shall require, and to fix their compensation, and

5. To make by-laws, not inconsistent with any existing law, for the management of its property, the regulations of its affairs, and the transfer of its stock, if it has any, and the calling of meetings of its members. Such by-laws may also fix the amount of stock, which must be represented at meetings of the stockholders in order to constitute a quorum, unless otherwise provided by law. By-laws duly adopted at a meeting of the members of a corporation shall control the action of its directors. No by-law adopted by the board of directors regulating the election of directors or officers shall be valid unless published for at least once a week for two successive weeks in a newspaper in the county where the election is to be held, and at least thirty days before such election. Subdivisions four and five of this section shall not apply to municipal corporations. (*Thus amended by chap. 672, Laws of 1895.*)

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a corporation formed under the bank[illegible]ORATIONS.
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AMENDED AND SUPPLEMEN[illegible]*poration* may take or hold, such cor-

§ 7. If in the original [illegible] *property* of the value of three million
tion of any corporatio[illegible] *yearly income* derived from which shall be five
any corporation ar[illegible] *dollars or* less, notwithstanding any such limita-
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therein, or if [illegible] *than* from improvements made thereon shall
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make and [illegible]
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amend[illegible] ADDITIONAL REAL PROPERTY.
such [illegible] *When any* corporation shall have sold or conveyed any part
an[illegible] *of its real property,* the supreme court may, notwithstanding any
[illegible] *restriction of a* general or special law, authorize it to purchase and
hold from time to time other real property, upon satisfactory proof
that the value of the property so purchased does not exceed the
value of the property so sold and conveyed within the three years
next preceding the application.

ACQUISITION OF PROPERTY IN OTHER STATES.

§ 14. Any domestic corporation transacting business in other states or foreign countries may acquire and dispose of such property as shall be requisite for such corporation in the convenient transaction of its business.

CERTIFICATE OF AUTHORITY OF A FOREIGN CORPORATION.

§ 15. No foreign stock corporation other than a moneyed corporation, shall do business in this state without having first procured from the secretary of state a certificate that it has complied with all the requirements of law to authorize it to do business in this state, and that the business of the corporation to be carried on in this state is such as may be lawfully carried on by a corporation incorporated under the laws of this state for such or similar business, or, if more than one kind of business, by two or more corporations so incorporated for such kinds of business respectively. The secretary of state shall deliver such certificate to every such corporation so complying with the requirements of law. No such corporation now doing business in this state shall do business herein after December 31, 1892, without having procured such certificate from the secretary of state, but any lawful contract previously made by the corporation may be performed and enforced within the state subsequent to such

'gn stock corporation doing business in this state
'cate shall maintain any action in this state upon
· it in this state until it shall have procured

FILED BEFORE GRANTING CERTIFICATE.

Before granting such certificate the secretary of state shall ,uire every such foreign corporation to file in his office a sworn copy in the English language of its charter or certificate of incorporation and a statement under its corporate seal particularly setting forth the business or objects of the corporation which it is engaged in carrying on or which it proposes to carry on within the state, and a place within the state which is to be its principal place of business, and designating in the manner prescribed in the code of civil procedure a person upon whom process against the corporation may be served within the state. The person so designated must have an office or place of business at the place where such corporation is to have its principal place of business within the state. Such designation shall continue in force until revoked by an instrument in writing designating in like manner some other person upon whom process against the corporation may be served in this state. If the person so designated dies or removes from the place where the corporation has its principal place of business within the state, and the corporation does not within thirty days after such death or removal designate in like manner another person upon whom process against it may be served within the state, the secretary of state may revoke the authority of the corporation to do business within the state, and process against the corporation in an action upon any liability incurred within this state before such revocation, may, after such death or removal, and before another designation is made, be served upon the secretary of state. At the time of such service the plaintiff shall pay to the secretary of state two dollars, to be included in his taxable costs and disbursements, and the secretary of state shall forthwith mail a copy of such notice to such corporation if its address, or the address of any officer thereof is known to him. (*Thus amended by chap. 672, Laws of 1895.*)

ACQUISITION OF REAL PROPERTY IN THIS STATE BY CERTAIN FOREIGN CORPORATIONS.

§ 17. Any foreign corporation created under the laws of the United States, or of any state or territory thereof, and doing business in this State, may acquire such real property in this state as

ENLARGEMENT OF LIMITATIONS UPON THE AMOUNT OF THE PROPERTY OF NON-STOCK CORPORATIONS.

§ 12. If any general or special law heretofore passed, or any certificate of incorporation, shall limit the amount of property a corporation other than a stock corporation may take or hold, such corporation may take and hold property of the value of three million dollars or less, or the yearly income derived from which shall be five hundred thousand dollars or less, notwithstanding any such limitations. In computing the value of such property, no increase in value arising otherwise than from improvements made thereon shall be taken into account. (*Thus amended by chap. 400, Laws 1894.*)

ACQUISITION OF ADDITIONAL REAL PROPERTY.

§ 13. When any corporation shall have sold or conveyed any part of its real property, the supreme court may, notwithstanding any restriction of a general or special law, authorize it to purchase and hold from time to time other real property, upon satisfactory proof that the value of the property so purchased does not exceed the value of the property so sold and conveyed within the three years next preceding the application.

ACQUISITION OF PROPERTY IN OTHER STATES.

§ 14. Any domestic corporation transacting business in other states or foreign countries may acquire and dispose of such property as shall be requisite for such corporation in the convenient transaction of its business.

CERTIFICATE OF AUTHORITY OF A FOREIGN CORPORATION.

§ 15. No foreign stock corporation other than a moneyed corporation, shall do business in this state without having first procured from the secretary of state a certificate that it has complied with all the requirements of law to authorize it to do business in this state, and that the business of the corporation to be carried on in this state is such as may be lawfully carried on by a corporation incorporated under the laws of this state for such or similar business, or, if more than one kind of business, by two or more corporations so incorporated for such kinds of business respectively. The secretary of state shall deliver such certificate to every such corporation so complying with the requirements of law. No such corporation now doing business in this state shall do business herein after December 31, 1892, without having procured such certificate from the secretary of state, but any lawful contract previously made by the corporation may be performed and enforced within the state subsequent to such

date. No foreign stock corporation doing business in this state without such certificate shall maintain any action in this state upon any contract made by it in this state until it shall have procured such certificate.

PROOF TO BE FILED BEFORE GRANTING CERTIFICATE.

§ 16. Before granting such certificate the secretary of state shall require every such foreign corporation to file in his office a sworn copy in the English language of its charter or certificate of incorporation and a statement under its corporate seal particularly setting forth the business or objects of the corporation which it is engaged in carrying on or which it proposes to carry on within the state, and a place within the state which is to be its principal place of business, and designating in the manner prescribed in the code of civil procedure a person upon whom process against the corporation may be served within the state. The person so designated must have an office or place of business at the place where such corporation is to have its principal place of business within the state. Such designation shall continue in force until revoked by an instrument in writing designating in like manner some other person upon whom process against the corporation may be served in this state. If the person so designated dies or removes from the place where the corporation has its principal place of business within the state, and the corporation does not within thirty days after such death or removal designate in like manner another person upon whom process against it may be served within the state, the secretary of state may revoke the authority of the corporation to do business within the state, and process against the corporation in an action upon any liability incurred within this state before such revocation, may, after such death or removal, and before another designation is made, be served upon the secretary of state. At the time of such service the plaintiff shall pay to the secretary of state two dollars, to be included in his taxable costs and disbursements, and the secretary of state shall forthwith mail a copy of such notice to such corporation if its address, or the address of any officer thereof is known to him. (*Thus amended by chap. 672, Laws of 1895.*)

ACQUISITION OF REAL PROPERTY IN THIS STATE BY CERTAIN FOREIGN CORPORATIONS.

§ 17. Any foreign corporation created under the laws of the United States, or of any state or territory thereof, and doing business in this State, may acquire such real property in this state as

may be necessary for its corporate purposes in the transaction of its business in this state, and convey the same by deed or otherwise in the same manner as a domestic corporation.

ACQUISITION BY FOREIGN CORPORATIONS OF REAL PROPERTY IN THIS STATE.

§ 18. Any foreign corporation may purchase at a sale upon the foreclosure of any mortgage held by it, or, upon any judgment or decree for debts due it, or, upon any settlement to secure such debts, any real property within this state covered by or subject to such mortgage, judgment, decree or settlement, and may take by devise any real property situated within this state and hold the same for not exceeding five years from the date of such purchase, or from the time when the right to the possession thereof vests in such devisee, and convey it by deed or otherwise in the same manner as a domestic corporation. (*Thus amended by chap. 136, Laws 1894.*)

PROHIBITION OF BANKING POWERS.

§ 19. No corporation except a corporation formed under or subject to the banking laws, shall by any implication or construction be deemed to possess the power of carrying on the business of discounting bills, notes or other evidences of debt, of receiving deposits, of buying gold or silver bullion or foreign coins, or buying and selling bills of exchange, or shall issue bills, notes or other evidences of debt for circulation as money.

QUALIFICATION OF MEMBERS AS VOTERS.

§ 20. At every election of directors and meeting of the members of any corporation, every member who is not in default in the payment of his subscriptions upon his stock or disqualified by the by-laws, shall be entitled to one vote, if a non-stock corporation, and, if a stock corporation, to one vote for every share of stock held by him for ten days immediately preceding the election or meeting.

Every pledgor of stock standing in his name on the books of the corporation shall be deemed the owner thereof for the purpose of this section.

The certificate of incorporation of any stock corporation may provide that at all elections of directors of such corporation, each stockholder shall be entitled to as many votes as shall equal the number of his shares of stock multiplied by the number of directors to be elected, and that he may cast all of such votes for a single director or may distribute them among the number to be voted for, or any

two or more of them as he may see fit, which right, when exercised, shall be termed cumulative voting. The stockholders of a corporation heretofore formed, who, by the provisions of laws existing on April 30, 1891, were entitled to the exercise of such right, may hereafter exercise such right according to the provisions of this section.

No person shall vote or issue a proxy to vote at any meeting of the stockholders or bondholders, or both, of a stock corporation, upon any stock or bonds which have not been owned by him for at least ten days next preceding such meeting, notwithstanding such stock or bonds may stand in his name on the books of the corporation.

No member of a corporation shall sell his vote or issue a proxy to vote to any person for any sum of money or anything of value.

The books and papers containing the record of membership of the corporation shall be produced at any meeting of its members upon the request of any member. If the right to vote at any such meeting shall be challenged, the inspectors of election, or other persons presiding thereat, shall require such books, if they can be had, to be produced as evidence of the right of the person challenged to vote at such meeting, and all persons who may appear from such books to be members of the corporation may vote at such meeting in person or by proxy, subject to the provisions of this chapter.

PROXIES.

§ 21. Every member of a corporation, except a religious corporation, entitled to vote at any meeting thereof, may so vote by proxy.

No officer, clerk, teller or bookkeeper of a corporation formed under or subject to the banking law shall act as proxy for any stockholder at any meeting of any such corporation.

Every proxy must be executed in writing by the member himself, or by his duly authorized attorney. No proxy hereafter made shall be valid after the expiration of eleven months from the date of its execution, unless the member executing it shall have specified therein the length of time it is to continue in force, which shall be for some limited period. Every proxy shall be revocable at the pleasure of the person executing it; but a corporation having no capital stock may prescribe in its by-laws the persons who may act as proxies for members, and the length of time for which proxies may be executed.

CHALLENGES.

§ 22. Every member of a corporation offering to vote at any election or meeting of the corporation shall, if required by an inspector of election or other officer presiding at such election or meeting, or by any other member present, take and subscribe the following oath: "I do solemnly swear that in voting at this election I have not, either directly, indirectly or impliedly, received any promise or any sum of money or anything of value to influence the giving of my vote or votes at this meeting or as a consideration therefor." If it is a stock corporation, the oath so taken and subscribed shall contain the following additional provision: "That I have not sold or otherwise disposed of my interest in or title to any shares of stock or bonds in respect to which I offer to vote at this election, but that all such shares or bonds are still owned by me," but if such stock or bonds be pledged, the oath may so state. Any person offering to vote as proxy for any other person shall present his proxy, and, if so required, take and subscribe the following oath: "I do solemnly swear that I have not, either directly, indirectly or impliedly, given any promise or any sum of money or anything of value to induce the giving of a proxy to me to vote at this election, or received any promise or any sum of money or anything of value to influence the giving of my vote at this meeting, or as a consideration therefor." If a stock corporation, the oath so taken and subscribed shall contain the following additional provision: "And that the title to the stocks and bonds upon which I now offer to vote is, to the best of my knowledge and belief, truly and in good faith vested in the persons in whose names they now stand," but if such stocks or bonds be held as security, the oath may so state. The inspectors or persons presiding at the election may administer such oath, and all such oaths and proxies shall be filed in the office of the corporation. (*Thus amended by chap. 672, Laws of 1895.*)

EFFECT OF FAILURE TO ELECT DIRECTORS.

§ 23. If the directors shall not be elected on the day designated in the by-laws, or by law, the corporation shall not for that reason be dissolved; but every director shall continue to hold his office and discharge his duties until his successor has been elected.

MODE OF CALLING SPECIAL ELECTION OF DIRECTORS.

§ 24. If the election has not been held on the day so designated, the directors shall forthwith call a meeting of the members of the corporation for the purpose of electing directors, of which meeting

notice shall be given in the same manner as of the annual meeting for the election of directors.

If such meeting shall not be so called within one month, or, if held, shall result in the failure to elect directors, any member of the corporation may call a meeting for the purpose of electing directors by publishing a notice of the time and place of holding such meeting, at least once in each week for two successive weeks immediately preceding the election, in a newspaper published in the county where the election is to be held and in such other manner as may be prescribed in the by-laws for the publication of notice of the annual meeting, and by serving upon each member, either personally or by mail, directed to him at his last known post-office address, a copy of such notice at least two weeks before the meeting.

MODE OF CONDUCTING SPECIAL ELECTIONS OF DIRECTORS.

§ 25. Such meeting shall be held at the office of the corporation, or if it has none, at the place in this state where its principal business has been transacted, or if access to such office or place is denied or cannot be had, at some other place in the city, village or town where such office or place is or was located.

At such meeting the members attending shall constitute a quorum. They may elect inspectors of election and directors and adopt by-laws providing for future annual meetings and election of directors, if the corporation has no such by-laws, and transact any other business which may be transacted at an annual meeting of the members of the corporation.

QUALIFICATION OF VOTERS AND CANVASS OF VOTES AT SPECIAL ELECTIONS.

§ 26. In the absence at such meeting of the books of the corporation showing who are members thereof, each person, before voting, shall present his sworn statement setting forth that he is a member of the corporation; and if a stock corporation, the number of shares of stock owned by him and standing in his name on the books of the corporation, and, if known to him, the whole number of shares of stock of the corporation outstanding. On filing such statement, he may vote as a member of the corporation; and if a stock corporation, he may vote on the shares of stock appearing in such statement to be owned by him and standing in his name on the books of the corporation.

The inspectors shall return and file such statements, with a certificate of the result of the election, verified by them, in the office

of the clerk of the county in which such election is held, and the persons so elected shall be the directors of the corporation.

POWERS OF SUPREME COURT RESPECTING ELECTIONS.

§ 27. The supreme court shall, upon the application of any person or corporation aggrieved by or complaining of any election of any corporation or any proceeding, act or matter touching the same, upon notice thereof to the adverse party, or to those to be affected thereby, forthwith and in a summary way, hear the affidavits, proofs and allegations of the parties, or otherwise inquire into the matters or causes of complaint, and establish the election or order a new election, or make such order and give such relief as right and justice may require.

STAY OF PROCEEDINGS IN ACTIONS COLLUSIVELY BROUGHT.

§ 28. If an action is brought against a corporation by the procurement or default of its directors, or any of them, to enforce any claim or obligation declared void by law, or to which the corporation has a valid defense, and such action is in the interest or for the benefit of any director, and the corporation has by his connivance made default in such action, or consented to the validity of such claim or obligation, any member of the corporation may apply to the supreme court, upon affidavit, setting forth the facts, for a stay of proceedings in such action, and on proof of the facts in such further manner and upon such notice as the court may direct, it may stay such proceedings or set aside and vacate the same, or grant such other relief as may seem proper, and which will not injuriously affect an innocent party, who, without notice of such wrongdoing and for a valuable consideration, has acquired rights under such proceedings.

QUORUM OF DIRECTORS AND POWERS OF MAJORITY.

§ 29. The affairs of every corporation shall be managed by its board of directors at least two of whom shall be residents of this state. Unless otherwise provided by law a majority of the board of directors of a corporation at a meeting duly assembled shall be necessary to constitute a quorum for the transaction of business, and the act of a majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. Subject to the by-laws, if any, adopted by the members of a corporation, the directors may make necessary by-laws of the corporation.

DIRECTORS AS TRUSTEES IN CASE OF DISSOLUTION.

§ 30. Upon the dissolution of any corporation, its directors, unless other persons shall be appointed by the legislature, or by some court of competent jurisdiction, shall be the trustees of its creditors, stockholders or members, and shall have full power to settle its affairs, collect and pay outstanding debts, and divide among the persons entitled thereto the money and other property remaining after payment of debts and necessary expenses.

Such trustees shall have authority to sue for and recover the debts and property of the corporation, by their name as such trustees, and shall jointly and severally be personally liable to its creditors, stockholders or members, to the extent of its property and effects that shall come into their hands.

FORFEITURE FOR NON-USER.

§ 31. If any corporation, except a railroad, turnpike, plank-road or bridge corporation, shall not organize and commence the transaction of its business or undertake the discharge of its corporate duties within two years from the date of its incorporation, its corporate powers shall cease.

EXTENSION OF CORPORATE EXISTENCE.

§ 32. Any domestic corporation at any time within three years before the expiration thereof, may extend the term of its existence beyond the time specified in its original certificate of incorporation, or by law, or in any certificate of extension of corporate existence, by the consent of the stockholders owning two-thirds in amount of its capital stock, if not a stock corporation, by the consent of two-thirds of its members, in and by a certificate signed and acknowledged by them and filed in the offices in which the original certificates of its incorporation were filed, if at all, and, if not, then in the offices where certificates of incorporation are now required by law to be filed, and the officers with whom the same may be filed shall thereupon record them in the books kept in their respective offices for the record of such certificates, and make a memorandum of such record in the margin of the original certificate in such book, if any, and thereupon the time of existence of such corporation shall be extended, as designated in such certificate, for a term not exceeding the term of which it was incorporated in the first instance. If the term of existence of any domestic corporation shall have expired and it shall be made satisfactorily to appear to the supreme court that such corporation was legally organized pur-

suant to any law of this state, and that through mistake it shall have issued its bonds payable at a date beyond the date fixed in its charter or certificate of incorporation for the expiration of its corporate existence, and such bonds shall be unmatured and unpaid, the supreme court may, upon the application of any person interested and upon such notice to such other parties as the court may require, by order, authorize the filing and recording of a certificate reviving the existence of such corporation, upon such conditions and with such limitations as such order shall specify, and extending such corporate existence for a term not exceeding the term for which it was originally incorporated. Upon filing and recording such certificate in the same manner as certificates of extension of corporate existence duly issued before the expiration of the existence of a domestic corporation is authorized by law to be filed and recorded, such corporate existence shall be revived and extended in pursuance of the terms of such order, but such revival and extension shall not affect any litigation commenced after such expiration and pending at the time of such revival.

If a corporation formed under or subject to the banking law, such certificate shall not be filed or recorded unless it shall have indorsed thereon the written approval of the superintendent of banks; or, if an insurance corporation, unless it shall have indorsed thereon the written approval of the superintendent of insurance; and, if a turnpike or bridge corporation, it shall not be filed unless it shall have indorsed thereon or annexed thereto a certified copy of a resolution of the board of supervisors of each county in which such turnpike or bridge is located, approving of and authorizing such extension.

Every corporation extending its corporate existence under this chapter or under any general law of the state shall thereafter be subject to the provisions of this chapter and of such general law, notwithstanding any special provisions in its charter, and shall thereafter be deemed to be incorporated under the general laws of the state relating to the incorporation of a corporation for the purpose of carrying on the business in which it is engaged, and shall be subject to the provisions of such laws.

CONFLICTING CORPORATE LAWS.

§ 33. If in any corporate law there is or shall be any provision in conflict with any provisions of this chapter or of the stock corporation law, the provisions so conflicting shall prevail, and the provision of this chapter or of the stock corporation law with which it

conflicts shall not apply in such a case. If in any such law there is or shall be a provision relating to a matter embraced in this chapter or in the stock corporation law, but not in conflict with it, such provision in such other law shall be deemed to be in addition to the provision in this chapter or in the stock corporation law relating to the same subject matter, and both provisions shall, in such case, be applicable.

LAWS REPEALED.

§ 34. Of the laws enumerated in the schedule hereto annexed, that portion specified in the last column is repealed. Such repeal shall not revive a law repealed by any law hereby repealed, but shall include all laws amendatory of the laws hereby repealed.

SAVING CLAUSE.

§ 35. The repeal of a law or any part of it specified in the annexed schedule shall not affect or impair any act done, or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to May 1, 1891, under or by virtue of any law so repealed, but the same may be asserted, enforced, prosecuted or inflicted, as fully and to the same extent as if such law had not been repealed. All actions and proceedings, civil or criminal, commenced under or by virtue of the laws so repealed, and pending on April 30, 1891, may be prosecuted and defended to final effect in the same manner as they might under the laws then existing, unless it shall be otherwise specially provided by law.

CONSTRUCTION.

§ 36. The provisions of this chapter, and of the stock corporation law, the railroad law, the transportation corporations law, and the business corporations law, so far as they are substantially the same as those of laws existing on April 30, 1891, shall be construed as a continuation of such laws modified or amended according to the language employed in this chapter, or in the stock corporation law, the railroad law, the transportation corporations law, or the business corporations law, and not as new enactments.

References in laws not repealed to provisions of laws incorporated into the general laws hereinbefore enumerated and repealed, shall be construed as applying to the provisions so incorporated.

Nothing in this chapter or in the other general laws hereinbefore specified shall be construed to amend or repeal any provision of the Criminal or Penal Code or to impair any right or liability which any

existing corporation, its officers, directors, stockholders or creditors may have or be subject to or which any such corporation, other than a railroad corporation, had or was subject to on April 30, 1891, by virtue of any special act of the legislature creating such corporation or creating or defining any such right or liability, unless such special act is repealed by this chapter.

LAW REVIVED.

§ 37. Chapter three hundred of the laws of eighteen hundred and fifty-five, entitled "An act to incorporate the Baptist Historical Society of the city of New York," which was inadvertently repealed by the transportation corporations law, is revived and re-enacted, and shall be of the same force and effect as if it had not been repealed.

WHEN NOTICE OF LAPSE OF TIME UNNECESSARY.

§ 38. Whenever, under the provisions of any of the corporate laws a corporation is authorized to take any action after notice to its members or after the lapse of a prescribed period of time, such action may be taken without notice and without the lapse of any period of time, if such action be authorized or approved, and such requirements be waived in writing by every member of such corporation, or by his attorney thereunto authorized. (*This section added by chap. 672, Laws of 1895.*)

AS TO ACTS OF DIRECTORS.

§ 39. Whenever, under the provisions of any of the corporate laws a corporation is authorized to take any action by the agreement or action of its directors, managers or trustees, such agreement or action may be taken by such directors, regularly convened as a board, and acting by a majority of a quorum, except when otherwise expressly required by law or the by-laws of the corporation and any such agreement shall be executed in behalf of the corporation by such officers as shall be designated by the board of directors, managers or trustees. (*This section added by chap. 672, Laws of 1895.*)

ALTERATION AND REPEAL OF CHARTER.

§ 40. The charter of every corporation shall be subject to alteration, suspension and repeal, in the discretion of the legislature. (*This section added by chap. 672, Laws of 1895.*)

SCHEDULE OF LAWS REPEALED.

Revised Statutes.....Part I, chapter 18.....All

LAWS OF	Chapter	Section.
1811	67	All.
1815	47	All.
1815	202	All.
1816	58	All.
1817	223	All.
1818	67	All.
1819	102	All.
1821	14	All.
1822	213	All.
1836	284	All.
1836	316	All.
1838	160	All.
1838	161	All.
1838	262	All.
1839	218	All.
1842	165	All.
1846	155	All.
1846	215	17, 18
1847	100	3, 4.
1847	210	All.
1847	222	All.
1847	270	All.
1847	272	All.
1847	287	All.
1847	398	All.
1847	404	All.
1847	405	All.
1848	37	All.
1848	40	All.
1848	45	All.
1848	259	All.
1848	265	All.
1848	360	All.
1849	250	All.
1849	362	All.
1850	71	All.
1850	140	All.
1851	14	All.
1851	19	All.
1851	98	All.
1851	107	All.
1851	487	All.
1851	497	All.
1852	228	All.
1852	372	All.
1853	53	All.
1853	117	All.

LAWS OF	Chapter	Section.
1853	124	All.
1853	135	All.
1853	245	All.
1853	333	All.
1853	471	1, 2, 4.
1853	481	All.
1853	502	All.
1853	626	All.
1854	3	All.
1854	87	All.
1854	140	All.
1854	201	All.
1854	232	All.
1854	269	All.
1854	282	All.
1854	312	All.
1855	301	All.
1855	302	All.
1855	390	All.
1855	478	All.
1855	485	All.
1855	495	All.
1855	546	All.
1855	559	All.
1856	65	All.
1857	29	All.
1857	83	All.
1857	185	All.
1857	202	All.
1857	262	All.
1857	444	All.
1857	546	All.
1857	558	All.
1857	643	All.
1857	776	All.
1858	10	All.
1858	125	All.
1859	209	All.
1859	311	All.
1859	455	All.
1860	116	All.
1860	269	All.
1860	523	All.
1861	149	All.
1861	170	All.
1861	215	All.
1861	238	All.
1862	205	All.
1862	248	All.
1862	425	All.
1862	438	All.

LAWS OF	Chapter	Section.
1862	449	All.
1862	472	All.
1863	63	All.
1863	134	All.
1863	346	All.
1864	85	All.
1864	337	All.
1864	517	All.
1864	582	All.
1865	234	All.
1865	246	All.
1865	307	All.
1865	691	All.
1865	780	All.
1866	73	All.
1866	259	All.
1866	322	All.
1866	371	All.
1866	697	All.
1866	780	All.
1866	799	All.
1866	838	All.
1867	12	All.
1867	49	All.
1867	248	All.
1867	254	All.
1867	419	All.
1867	480	All.
1867	509	All.
1867	775	All.
1867	906	All.
1867	937	All.
1867	960	All.
1867	974	All.
1868	253	All.
1868	290	All.
1868	573	All.
1868	781	All.
1869	234	All.
1869	237	All.
1869	605	All.
1869	706	All.
1869	844	All.
1869	917	All.
1870	124	All.
1870	135	All.
1870	322	All.
1870	443	All.
1870	568	All.
1870	773	All.
1871	95	All.

LAWS OF	Chapter	Section.
1871	481	All.
1871	535	All.
1871	560	All.
1871	657	All.
1871	669	All.
1871	697	All.
1871	883	All.
1872	81	All.
1872	128	All.
1872	146	All.
1872	248	All.
1872	283	All.
1872	350	All.
1872	374	All.
1872	426	All.
1872	609	All.
1872	611	All.
1872	779	All.
1872	780	All.
1872	820	All except 20.
1872	829	All.
1872	843	All.
1873	151	All.
1873	352	All.
1873	432	All.
1873	440	All.
1873	469	All.
1873	616	All.
1873	710	All.
1873	737	All.
1873	814	All.
1874	76	All.
1874	143	All.
1874	149	All.
1874	240	All.
1874	288	All.
1874	430	All.
1875	4	All.
1875	58	All.
1875	88	All.
1875	108	All.
1875	113	All.
1875	119	All.
1875	120	All.
1875	159	All.
1875	193	All.
1875	256	All.
1875	319	All.
1875	365	All.
1875	445	All.
1875	510	All.

LAWS OF	Chapter	Section.
1875	586	All.
1875	598	All.
1875	606	All.
1875	611	All.
1876	77	All.
1876	135	All.
1876	198	All.
1876	280	All.
1876	358	All.
1876	373	All.
1876	415	All.
1876	435	All.
1876	446	All.
1877	103	All.
1877	158	All.
1877	164	All.
1877	171	All.
1877	224	All.
1877	266	All.
1877	374	All.
1878	61	All.
1878	121	All.
1878	163	All.
1878	203	All.
1878	210	All.
1878	261	All.
1878	264	All.
1878	316	All.
1878	334	All.
1878	394	All.
1879	214	All.
1879	253	All.
1879	290	All.
1879	293	All.
1879	350	All.
1879	377	All.
1879	393	All.
1879	395	All.
1879	413	All.
1879	415	All.
1879	441	All.
1879	503	All.
1879	505	All.
1879	512	All.
1879	541	All.
1880	5	All.
1880	85	All.
1880	90	All.
1880	94	All.
1880	113	All.
1880	133	All.

LAWS OF	Chapter	Section.
1880	155	All.
1880	182	All.
1880	187	All.
1880	223	All.
1880	225	All.
1880	241	All.
1880	254	All.
1880	263	All.
1880	267	All.
1880	349	All.
1880	415	All.
1880	417	All.
1880	484	All.
1880	510	All.
1880	575	All.
1880	582	All.
1880	583	All.
1880	585	All.
1881	22	All.
1881	58	All.
1881	77	All.
1881	117	All.
1881	148	All.
1881	213	All.
1881	232	All.
1881	295	All.
1881	296	All.
1881	311	All.
1881	313	All.
1881	321	All.
1881	337	All.
1881	338	All.
1881	351	All.
1881	399	All.
1881	422	All.
1881	464	All.
1881	468	All.
1881	470	All.
1881	472	All.
1881	485	All.
1881	551	All.
1881	589	All.
1881	649	All.
1881	650	All.
1881	674	All.
1881	685	All.
1882	73	All.
1882	82	All.
1882	140	All.
1882	273	All.
1882	289	All.

LAWS OF	Chapter	Section.
1882	290	All.
1882	306	All.
1882	309	All.
1882	349	All.
1882	353	All.
1882	393	All.
1882	405	All.
1883	46	All.
1883	71	All.
1883	102	All.
1883	216	All.
1883	232	All.
1883	237	All.
1883	238	All.
1883	240	All.
1883	287	All.
1883	323	All.
1883	361	All.
1883	381	All.
1883	382	All.
1883	384	All.
1883	386	All.
1883	387	All.
1883	388	All.
1883	409	All.
1883	482	All.
1883	483	All.
1883	497	All.
1884	140	All.
1884	193	All.
1884	208	All.
1884	223	All.
1884	252	All.
1884	267	All.
1884	367	All.
1884	386	All.
1884	397	All.
1884	421	All.
1884	422	All.
1884	439	All.
1884	441	All.
1884	444	All.
1885	84	All.
1885	127	All.
1885	141	All.
1885	153	All.
1885	171	All.
1885	305	All.
1885	369	All.
1885	422	All.
1885	423	All.

LAWS OF	Chapter	Section.
1885	489	All.
1885	498	All.
1885	535	All.
1885	540	All.
1885	549	All.
1886	65	All.
1886	182	All.
1886	271	All.
1886	321	All.
1886	322	All.
1886	403	All.
1886	415	All.
1886	509	All.
1886	551	All.
1886	579	All.
1886	586	All.
1886	592	All.
1886	601	All.
1886	605	All.
1886	634	All.
1886	642	All.
1887	450	All.
1887	486	All.
1887	536	All.
1887	570	All.
1887	616	All.
1887	622	All.
1887	724	All.
1888	189	All.
1888	306	All.
1888	313	All.
1888	359	All.
1888	394	All.
1888	447	All.
1888	462	All.
1888	513	All.
1888	514	All.
1888	549	All.
1888	560	All.
1889	57	All.
1889	76	All.
1889	78	All.
1889	236	All.
1889	242	All.
1889	281	All.
1889	332	All.
1889	369	All.
1889	426	All.
1889	519	All.
1889	524	All.
1889	531	All.

LAWS OF	Chapter	Section.
1889	532	All.
1889	564	All.
1890	23	All.
1890	98	All.
1890	119	All.
1890	193	All.
1890	292	All.
1890	416	All.
1890	421	All.
1890	483	All.
1890	497	All.
1890	505	All.
1890	508	All.
1890	543	All.
1891	57	All.
1891	287	All.
1892	2	All.

LAWS OF	Chapter	Section.
1885	489	All.
1885	498	All.
1885	535	All.
1885	540	All.
1885	549	All.
1886	65	All.
1886	182	All.
1886	271	All.
1886	321	All.
1886	322	All.
1886	403	All.
1886	415	All.
1886	509	All.
1886	551	All.
1886	579	All.
1886	586	All.
1886	592	All.
1886	601	All.
1886	605	All.
1886	634	All.
1886	642	All.
1887	450	All.
1887	486	All.
1887	536	All.
1887	570	All.
1887	616	All.
1887	622	All.
1887	724	All.
1888	189	All.
1888	306	All.
1888	313	All.
1888	359	All.
1888	394	All.
1888	447	All.
1888	462	All.
1888	513	All.
1888	514	All.
1888	549	All.
1888	560	All.
1889	57	All.
1889	76	All.
1889	78	All.
1889	236	All.
1889	242	All.
1889	281	All.
1889	332	All.
1889	369	All.
1889	426	All.
1889	519	All.
1889	524	All.
1889	531	All.

LAWS OF	Chapter	Section.
1882	290	All.
1882	306	All.
1882	309	All.
1882	349	All.
1882	353	All.
1882	393	All.
1882	405	All.
1883	46	All.
1883	71	All.
1883	102	All.
1883	216	All.
1883	232	All.
1883	237	All.
1883	238	All.
1883	240	All.
1883	287	All.
1883	323	All.
1883	361	All.
1883	381	All.
1883	382	All.
1883	384	All.
1883	386	All.
1883	387	All.
1883	388	All.
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1883	497	All.
1884	140	All.
1884	193	All.
1884	208	All.
1884	223	All.
1884	252	All.
1884	267	All.
1884	367	All.
1884	386	All.
1884	397	All.
1884	421	All.
1884	422	All.
1884	439	All.
1884	441	All.
1884	444	All.
1885	84	All.
1885	127	All.
1885	141	All.
1885	153	All.
1885	171	All.
1885	305	All.
1885	369	All.
1885	422	All.
1885	423	All.

CHAP. 688, LAWS OF 1890.

AN ACT to amend the stock corporation law.

The stock corporation law is amended to read as follows, to take effect immediately:

CHAPTER XXXVI. OF THE GENERAL LAWS.

THE STOCK CORPORATION LAW.

ARTICLE 1. General powers; reorganization. (§§ 1-7.)
2. Directors and officers; their election, duties and liabilities. (§§ 20-32).
3. Stock; stockholders, their rights and liabilities. (§§ 40-55.)

ARTICLE I.

GENERAL POWERS; REORGANIZATION.

SECTION 1. Short title, and application of chapter.
2. Power to borrow money and mortgage property.
3. Reorganization upon sale of corporate property and franchises.
4. Contents of plan or agreement.
5. Sale of property; possession of receiver and suits against him.
6. Assent of stockholders to plan of readjustment.
7. Combinations prohibited.

SHORT TITLE AND APPLICATION OF CHAPTER.

SECTION 1. This chapter shall be known as the stock corporation law, but article one shall not apply to monied corporations.

POWER TO BORROW MONEY AND MORTGAGE PROPERTY.

§ 2. In addition to the powers conferred by the general corporation law, every stock corporation shall have power to borrow money or contract debts, when necessary for the transaction of its business, or for the exercise of its corporate rights, privileges or franchises, or for any other lawful purpose of its incorporation; and may issue and dispose of its obligations for any amount so borrowed, and may mortgage its property and franchises to secure the payment of such obligations or of any debt contracted for the purposes herein specified; and the amount of the obligations issued and outstanding at any one time secured by such mortgages, excepting mortgages given as a consideration for the purchase of real estate, and mortgages authorized by contracts made prior to May first, eighteen hundred and ninety-one, shall not exceed the amount of its paid up capital stock, or an amount equal to two-thirds of the value of its corporate property at

the time of issuing the obligations secured by such mortgages, in case such two-thirds value shall be more than the amount of such paid up capital stock. No such mortgages, except purchase-money mortgages, shall be issued without the consent of the stockholders owning at least two-thirds of the stock of the corporation, which consent shall be in writing and shall be filed and recorded in the office of the clerk or register of the county where it has its principal place of business, or shall be given by vote at a special meeting of the stockholders called for that purpose; and a certificate of the vote at such meeting, signed and sworn to by the chairman and secretary of such meeting, shall be filed and recorded as aforesaid. When authorized by such consent, the directors, under such regulations as they may adopt, may confer on the holder of any debt or obligation secured by such mortgage the right to convert the principal thereof, after two and not more than twelve years from the date of the mortgage, into stock of the corporation; and if the capital stock shall not be sufficient to meet the conversion when made, the stockholders shall, in the manner herein provided, authorize an increase of capital stock sufficient for that purpose. (*See also chap. 337, Laws 1892.*)

REORGANIZATION UPON SALE OF CORPORATE PROPERTY AND FRANCHISES.

§ 3. When the property and franchises of any domestic stock corporation shall be sold by virtue of a mortgage or deed of trust, duly executed by it, or pursuant to the judgment or decree of a court of competent jurisdiction, or by virtue of any execution issued thereon, and the purchaser at such sale shall acquire title to the same in the manner prescribed by law, he may associate with him any number of persons, not less than the number required by law for the incorporation of such corporation, a majority of whom shall be citizens and residents of this state, and they may become a corporation, and take and possess the property and franchises thus sold, and which were at the time of sale possessed by the corporation whose property shall have been so sold, upon making, acknowledging and filing in the offices where certificates of incorporation are required by law to be filed, a certificate in which they shall describe by name and reference to the law under which it was organized, the corporation whose property and franchises they have acquired, and the court by whose authority the sale had been made, with the date of the judgment or decree authorizing or directing the same, and a brief description of the property sold, and also the following particulars:

1. The name of the new corporation intended to be formed by the filing of such certificate.

2. The maximum amount of its capital stock and the number of shares into which it is to be divided, specifying the classes thereof, whether common or preferred, and the amount of and rights pertaining to each class.

3. The number of directors, not less nor more than the number required by law for the old corporation, who shall manage the affairs of the new corporation, and the names and post-office address of the directors for the first year.

4. Any plan or agreement which may have been entered into at or previous to the time of sale, in anticipation of the formation of the new corporation, and pursuant to which such purchase was made. Such corporation shall be vested with and be entitled to exercise and enjoy all the rights, privileges and franchises, which at the time of such sale belonged to, or were vested in the corporation, last owning the property sold, or its receiver, and shall be subject to all the provisions, duties and liabilities imposed by law on such corporations.

CONTENTS OF PLAN OR AGREEMENT.

§ 4. At or previous to the sale the purchasers thereat, or the persons for whom the purchase is to be made, may enter into a plan or agreement, for or in anticipation of the readjustment of the respective interests therein of the mortgage creditors and stockholders of the corporation owning such property and franchises at the time of sale, and for the representation of such interests of creditors and stockholders in the bonds or stock of the new corporation to be formed, and may therein regulate voting by the holders of the preferred and common stock at any meeting of the stockholders, and by the holders and owners of any or all of the bonds of the corporation foreclosed, or of the bonds issued or to be issued by the new corporation, and such right of voting by bondholders shall be exercised in such manner, for such period, and upon such conditions, as shall be therein described. Such plan or agreement must contain suitable provision for the bondholders voting by proxy and must not be inconsistent with the laws of the state and shall be binding upon the corporation, until changed as therein provided, or as otherwise provided by law. The new corporation when duly organized, pursuant to such plan or agreement and to the provisions of law, may issue its bonds and stock in conformity with the provisions of such plan or agreement, and may at any time within six months after its

organization, compromise, settle or assume the payment of any debt, claim or liability of the former corporation upon such terms as may be lawfully approved by a majority of the agents or trustees intrusted with the carrying out of the plan or agreement of reorganization, and may establish preferences in respect to the payment of dividends in favor of any portion of its capital stock and may divide its stock into classes, but the capital stock of the new corporation shall not exceed in the aggregate the maximum amount of stock mentioned in the certificate of incorporation, nor shall the bonds issued by it exceed in the aggregate the amount which a corporation is authorized by the provisions of this article to issue.

SALE OF PROPERTY; POSSESSION OF RECEIVER AND SUITS AGAINST HIM.

§ 5. The supreme court may direct a sale of the whole of the property, rights and franchises covered by the mortgage or mortgages, or deeds of trust foreclosed at any one time and place to be named in the judgment or order, either in case of the non-payment of interest only, or of both the principal and interest due and unpaid and secured by any such mortgage or mortgages or deeds of trust. Neither the sale nor the formation of the new corporation shall interfere with the authority or possession of any receiver of such property and franchises, but he shall remain liable to be removed or discharged at such time as the court may deem proper. No suit or proceeding shall be commenced against such receiver unless founded on willful misconduct or fraud in his trust after the expiration of sixty days from the time of his discharge; but after the expiration of sixty days the new corporation shall be liable in any action that may be commenced against it, and founded on any act or omission of such receiver for which he may not be sued, and to the same extent as the receiver, but for this section would be or remain liable, or to the same extent that the new corporation would be had it done or omitted the acts complained of.

STOCKHOLDERS MAY ASSENT TO PLAN OF READJUSTMENT.

§ 6. Every stockholder in any corporation, the franchises and property whereof shall have been thus sold, may assent to the plan of readjustment and reorganization of interests pursuant to which such franchises and property shall have been purchased at any time within six months after the organization of the new corporation, and by complying with the terms and conditions of such plan become entitled to his pro rata benefits therein. The commissioners,

corporate authorities, or proper officers of any city, town or village, who may hold stock in any corporation, the property and franchises whereof shall be liable to be sold, may assent to any plan or agreement of re-organization which lawfully provides for the formation of a new corporation, and the issue of stock therein to the proper authorities or officers of such cities, towns or villages in exchange for the stock of the old or former corporation by them respectively held. And such commissioners, corporate authorities or other proper officers may assign, transfer or surrender the stock so held by them in the manner required by such plan, and accept in lieu thereof the stock issued by such new corporation in conformity therewith.

COMBINATIONS PROHIBITED.

§ 7. No stock corporation shall combine with any other corporation or person for the creation of a monopoly or the unlawful restraint of trade or for the prevention of competition in any necessary of life.

ARTICLE II.

DIRECTORS AND OFFICERS; THEIR ELECTION, DUTIES AND LIABILITIES.

SECTION 20. Directors.
21. Change of number of directors.
22. When acts of directors void.
23. Liability of directors for making unauthorized dividends.
24. Liability of directors for contracting unauthorized debts and over issue of bonds.
25. Liability of directors for loans to stockholders.
26. Transfers of stock by stockholders indebted to corporation.
27. Officers.
28. Inspectors and their oath.
29. Books to be kept.
30. Annual report.
31. Liability of officers for false certificates, reports of public notices.
32. Alteration or extension of business.
33. Sale of franchise or property.

DIRECTORS.

§ 20. The directors of every stock corporation shall be chosen from the stockholders at the time and place fixed by the by-laws of the corporation by a plurality of the votes of the stockholders voting at such election. Vacancies in the board of directors shall

be filled in the manner prescribed in the by-laws, and if a director shall cease to be a stockholder his office shall become vacant. Notice of the time and place of holding any election of directors shall be given by publication thereof, at least once in each week for two successive weeks immediately preceding such election, in a newspaper published in the county where such election is to be held, and in such other manner as may be prescribed in the by-laws. Policyholders of an insurance corporation shall be eligible to election as directors. At least one-fourth in number of the directors of every stock corporation shall be elected annually.

CHANGE OF NUMBER OF DIRECTORS.

§ 21. The number of directors of any stock corporation may be increased or reduced, but not above the maximum nor below the minimum number prescribed by law, when the stockholders owning a majority of the stock of the corporation shall so determine, at a meeting to be held at the usual place of meeting of the directors, on two weeks' notice in writing to each stockholder of record. Such notice shall be served personally or by mail, directed to each stockholder at his last known post-office address. Proof of the service of such notice shall be filed in the office of the corporation at or before the time of such meeting. The proceedings of such meeting shall be entered in the minutes of the corporation, and a transcript thereof, verified by the president and secretary of the meeting, shall be filed in the offices where the original certificates of incorporation were filed. If a corporation formed under or subject to the banking law, the consent of the superintendent of banks, and if an insurance corporation, the consent of the superintendent of insurance, shall be first obtained to such increase or reduction of the number of directors.

WHEN ACTS OF DIRECTORS VOID.

§ 22. When the directors of any corporation for the first year of its corporate existence shall hold over and continue to be directors after the first year, because of their neglect or refusal to adopt the by-laws required to enable the stockholders to hold the annual election for directors, all their acts and proceedings while so holding over, done for and in the name of the corporation, designed to charge upon it any liability or obligation for the services of any such director, or any officer, or attorney or counsel appointed by them, and every such liability or obligation shall be held to be fraudulent and void.

LIABILITY OF DIRECTORS FOR MAKING UNAUTHORIZED DIVIDENDS.

§ 23. The directors of a stock corporation shall not make dividends, except from the surplus profits arising from the business of such corporation; nor divide, withdraw or in any way pay to the stockholders, or any of them, any part of the capital of such corporation, or reduce its capital stock, except as authorized by law. In case of any violation of the provisions of this section, the directors under whose administration the same may have happened, except those who may have caused their dissent therefrom to be entered at large upon the minutes of such directors at the time, or were not present when the same happened, shall jointly and severally be liable to such corporation, and to the creditors thereof, to the full amount of the capital of such corporation so divided, withdrawn, paid out or reduced. But this section shall not prevent a division and distribution of the assets of any such corporation remaining after the payment of all its debts and liabilities upon the dissolution of such corporation or the expiration of its charter.

LIABILITY OF DIRECTORS FOR UNAUTHORIZED DEBTS AND OVER ISSUE OF BONDS.

§ 24. No stock corporation, except a monied corporation, shall create any debt, if thereby its total indebtedness not secured by mortgage shall exceed the amount of its paid-up capital stock, and the directors creating or consenting to the creation of any such debt shall be personally liable therefor to the creditors of the corporation. If bonds or other obligations of the corporation, secured by mortgage, are issued in excess of the amount authorized by law, or in violation of law, the directors voting for such over-issue, or unlawful issue, shall be personally liable to the holders of the bonds or other obligations illegally issued for the amount held by them, and to all persons sustaining damage by such illegal issues for any damage caused thereby.

LIABILITY OF DIRECTORS FOR LOANS TO STOCKHOLDERS.

§ 25. No loan of moneys shall be made by any stock corporation, except a monied corporation, or by any officer thereof out of its funds to any stockholder therein, nor shall any such corporation or officer discount any note or other evidence of debt, or receive the same in payment of any installment or any part thereof due or to become due on any stock in such corporation, or receive or discount any note, or other evidence of debt, to enable any stockholder to

withdraw any part of the money paid in by him on his stock. In case of the violation of any provision of this section, the officers or directors making such loan, or assenting thereto, or receiving or discounting such notes or other evidences of debt, shall, jointly and severally, be personally liable to the extent of such loan and interest, for all the debts of the corporation contracted before the repayment of the sum loaned, and to the full amount of the notes or other evidences of debt so received or discounted, with interest from the time such liability accrued.

TRANSFERS OF STOCK BY STOCKHOLDER INDEBTED TO CORPORATION.

§ 26. If a stockholder shall be indebted to the corporation, the directors may refuse to consent to a transfer of his stock until such indebtedness is paid, provided a copy of this section is written or printed upon the certificate of stock.

OFFICERS.

§ 27. The directors of a stock corporation may appoint from their number a president, and may appoint a secretary, treasurer, and other officers, agents and employes, who shall respectively have such powers and perform such duties in the management of the property and affairs of the corporation, subject to the control of the directors, as may be prescribed by them or in the by-laws. The directors may require any such officer, agent or employe to give security for the faithful performance of his duties, and may remove him at pleasure. The policyholders of an insurance corporation shall be eligible to election or appointment as its officers.

INSPECTORS AND THEIR OATH.

§ 28. The inspectors of election of every stock corporation shall be appointed in the manner prescribed in the by-laws, but the inspectors of the first election of directors and of all previous meetings of the stockholders shall be appointed by the board of directors named in the certificate of incorporation. No director or officer of a monied corporation shall be eligible to election or appointment as inspector. Each inspector shall be entitled to a reasonable compensation for his services, to be paid by the corporation, and if any inspector shall refuse to serve, or neglect to attend at the election, or his office become vacant, the meeting may appoint an inspector in his place unless the by-laws otherwise provide. The inspectors appointed to act at any meeting

of the stockholders shall, before entering upon the discharge of their duties, be sworn to faithfully execute the duties of inspector at such meeting with strict impartiality, and according to the best of their ability, and the oath so taken shall be subscribed by them, and immediately filed in the office of the clerk of the county in which such election or meeting shall be held, with a certificate of the result of the vote taken thereat.

BOOKS TO BE KEPT.

§ 29. Every stock corporation shall keep at its office, correct books of account of all its business and transactions, and a book to be known as the stock-book, containing the names, alphabetically arranged, of all persons who are stockholders of the corporation, showing their places of residence, the number of shares of stock held by them respectively, the time when they respectively became the owners thereof, and the amount paid thereon. The stock-book of every such corporation shall be open daily, during business hours, for the inspection of its stockholders and judgment creditors, who may make extracts therefrom. No transfer of stock shall be valid as against the corporation, its stockholders and creditors for any purpose, except to render the transferee liable for the debts of the corporation according to the provisions of this chapter, until it shall have been entered in such book as required by this section, by an entry showing from and to whom transferred. Such latter book shall be presumptive evidence of the facts therein so stated in favor of the plaintiff, in any action or proceeding against such corporation or any of its officers, directors or stockholders. Every corporation that shall neglect or refuse to keep or cause to be kept such books, or to keep any book open for inspection as herein required, shall forfeit to the people the sum of fifty dollars for every day it shall so neglect or refuse. If any officer or agent of any such corporation shall willfully neglect or refuse to make any proper entry in such book or books, or shall neglect or refuse to exhibit the same, or allow them to be inspected and extracts taken therefrom as provided in this section, the corporation and such officer or agent shall each forfeit and pay to the party injured a penalty of fifty dollars for every such neglect or refusal, and all damages resulting to him therefrom.

ANNUAL REPORT.

§ 30. Every stock corporation, except monied and railroad corporations, shall annually, during the month of January, or, if do-

ing business without the United States, before the first day of May, make a report as of the first day of January, which shall state:

1. The amount of its capital stock, and the proportion actually issued.

2. The amount of its debts or an amount which they do not then exceed.

3. The amount of its assets or an amount which its assets at least equal.

Such report shall be signed by a majority of its directors, and verified by the oath of the president or vice-president and treasurer or secretary, and filed in the office of the secretary of state and in the office of the county clerk of the county where its principal business office may be located. If such report is not so made and filed, all the directors of the corporation shall jointly and severally be personally liable for all the debts of the corporation then existing, and for all contracted before such report shall be made. No director shall be liable for the failure to make and file such report if he shall file with the secretary of state, within thirty days after the first day of February, or the first day of May, as the case may be, a verified certificate, stating that he has endeavored to have such report made and filed, but that the officers or a majority of the directors have refused and neglected to make and file the same, and shall append to such certificate a report containing the items required to be stated in such annual report, so far as they are within his knowledge or are obtainable from sources of information open to him, and verified by him to be true to the best of his knowledge, information and belief.

LIABILITY OF OFFICERS FOR FALSE CERTIFICATES, REPORTS OR PUBLIC NOTICES.

§ 31. If any certificate or report made or public notice given by the officers or directors of a stock corporation shall be false in any material representation, the officers and directors signing the same shall jointly and severally be personally liable to any person who has become a creditor or stockholder of the corporation upon the faith of any such certificate, report, notice or any material representation therein to the amount of the debt contracted upon the faith thereof if not paid when due, or of the damage sustained by any purchaser of or subscriber to its stock upon the faith thereof. The liability imposed by this section shall exist in all cases where the contents of any such certificate, report or notice or of any material representation therein shall have been communicated either directly or in-

directly to the person so becoming a creditor or stockholder and he became such creditor or stockholder upon the faith thereof. No action can be maintained for a cause of action created by this section unless brought within two years from the time the certificate, report or public notice shall have been made or given by the officers or directors of such corporation.

ALTERATION OR EXTENSION OF BUSINESS.

§ 32. Any stock corporation heretofore or hereafter organized under any general or special law of this state may extend or alter its business and powers so as to include any purposes and powers which at the time of such extension may have been conferred by law upon corporations engaged in a business of the same general character, or which might be included in the certificate of incorporation of a corporation organizing under any general law of this state for a business of the same general character, by filing in the manner provided for the original certificate of incorporation an amended certificate, executed by a majority of its directors, stating the extension of business and powers and rights proposed, and that the same has been duly authorized by a vote of stockholders representing at least three-fifths of the capital stock, at a meeting of the stockholders called for the purpose in the manner provided in section forty-five of this chapter, and a copy of the proceedings of such meeting, verified by the affidavit of one of the directors present thereat, shall be filed with such amended certificate.

SALE OF FRANCHISE AND PROPERTY.

§ 33. A stock corporation, except a railroad corporation and except as otherwise provided by law, with the consent of two-thirds of its stock, may sell and convey its property, rights, privileges and franchises, or any interest therein or any part thereof to a domestic corporation, engaged in a business of the same general character, or which might be included in the certificate of incorporation of a corporation organizing under any general law of this state for a business of the same general character; and such sale and conveyance shall vest the rights, property and franchises thereby transferred in the corporation to which they are conveyed for the term of its corporate existence, subject to the provisions and restrictions applicable to the corporation conveying them. Before such sale or conveyance shall be made such consent shall be obtained at a meeting of the stockholders called upon like notice as that required for an annual meeting. If any stockholder not voting in favor of such

proposed sale or conveyance shall at such meeting, or within twenty days thereafter object to such sale, and demand payment for his stock, he may, within sixty days after such meeting, apply to the supreme court at any special term thereof held in the district in which the principal place of business of such corporation is situated, upon eight days notice to the corporation, for the appointment of three persons to appraise the value of such stock, and the court shall appoint three such appraisers, and designate the time and place of their proceedings as shall be deemed proper, and also direct the manner in which payment for such stock shall be made to such stockholder. The court may fill any vacancy in the board of appraisers occurring by refusal or neglect to serve or otherwise. The appraisers shall meet at the time and place designated, and they or any two of them, after being duly sworn honestly and faithfully to discharge their duties, shall estimate and certify the value such stock at the time of such dissent, and deliver one copy to such corporation, and another to such stockholder if demanded; the charges and expenses of the appraisers shall be paid by the corporation. When the corporation shall have paid the amount of such appraisal, as directed by the court, such stockholders shall cease to have any interest in such stock and in the corporate property of such corporation and such stock may be held or disposed of by such corporation. (*This section added by chap. 638, Laws 1893.*)

ARTICLE III.

STOCK; STOCKHOLDERS, THEIR RIGHTS AND LIABILITIES.

SECTION 40. Issue and transfer of stock.
41. Subscriptions to stock.
42. Consideration for issue of stock and bonds.
43. Time of payment of subscriptions to stock.
44. Increase or reduction of capital stock.
45. Notice of meeting to increase or reduce capital stock.
46. Conduct of such meeting; certificate of increase or reduction.
47. Preferred and common stock.
48. Prohibited transfers to officers or stockholders.
49. Payment by stockholders of mortgage debt pending foreclosure.
50. Application to court to order issue of new in place of lost certificate of stock.
51. Order of court upon such application.
52. Financial statement to stockholders.
53. Exhibition of books by transfer agent of foreign corporation.
54. Liabilities of stockholders.
55. Limitation of stockholder's liability.
56. Increase or reduction of number of shares.

ISSUE AND TRANSFERS OF STOCK.

§ 40. The stock of every stock corporation shall be represented by certificates prepared by the directors and signed by the president or vice-president and secretary or treasurer and sealed with the seal of the corporation, and shall be transferable in the manner prescribed in this chapter and in the by-laws. No share shall be transferable until all previous calls thereon shall have been fully paid in.

Any stock corporation, domestic or foreign, now existing or hereafter organized, except monied corporations, may purchase, acquire, hold and dispose of the stocks, bonds and other evidences of indebtedness of any corporation, domestic or foreign, and issue in exchange therefor its stock, bonds or other obligations if authorized so to do by a provision in the certificate of incorporation of such stock corporation, or in any certificate amendatory thereof or supplementary thereto, filed in pursuance of law, or if the corporation whose stock is so purchased, acquired, held or disposed of, is engaged in a business similar to that of such stock corporation, or engaged in the manufacture, use or sale of the property, or in the construction or operation of works necessary or useful in the business of such stock corporation, or in which or in connection with which the manufactured articles, product or property of such stock corporation are or may be used, or is a corporation with which such stock corporation is or may be authorized to consolidate. When any such corporation shall be a stockholder in any other corporation, as herein provided, its president or other officers shall be eligible to the office of director of such corporation, the same as if they were individually stockholders therein and the corporation holding such stock shall possess and exercise in respect thereof, all the rights, powers and privileges of individual owners or holders of such stock.

Any stock corporation may, in pursuance of a unanimous vote of its stockholders voting at a special meeting called for that purpose by notice in writing signed by a majority of the directors of such corporation stating the time and place and object of the meeting, and served upon each stockholder appearing as such upon the books of the corporation, personally or by mail at his last-known post-office address at least sixty days prior to such meeting, guarantee the bonds of any other domestic corporation engaged in the same general line of business.

SUBSCRIPTIONS TO STOCK.

§ 41. If the whole capital stock shall not have been subscribed at the time of filing the certificate of incorporation, the directors named

in the certificate may open books of subscription to fill up the capital stock in such places, and after giving such notices as they may deem expedient, and may continue to receive subscriptions until the whole capital stock is subscribed. At the time of subscribing, every subscriber, whose subscription is payable in money, shall pay to the directors ten per centum upon the amount subscribed by him in cash, and no such subscription shall be received or taken without such payment.

CONSIDERATION FOR ISSUE OF STOCK AND BONDS.

§ 42. No corporation shall issue either stock or bonds except for money, labor done or property actually received for the use and lawful purposes of such corporation. No such stock shall be issued for less than its par value.

No such bonds shall be issued for less than the fair market value thereof.

TIME OF PAYMENT OF SUBSCRIPTIONS TO STOCK.

§ 43. Subscriptions to the capital stock of a corporation shall be paid at such times and in such installments as the board of directors may by resolution require. If default shall be made in the payment of any installment as required by such resolution, the board may declare the stock and all previous payments thereon forfeited for the use of the corporation, after the expiration of sixty days from the service on the defaulting stockholder, personally or by mail directed to him at his last-known post-office address, of a written notice requiring him to make payment within sixty days from the service of the notice at a place specified therein, and stating that, in case of failure to do so, his stock and all previous payments thereon will be forfeited for the use of the corporation.

Such stock, if forfeited, may be reissued or subscriptions therefor may be received as in the case of stock not issued or subscribed for. If not sold for its par value or subscribed for within six months after such forfeiture, it shall be cancelled and deducted from the amount of the capital stock. If by such cancellation, the amount of the capital stock is reduced below the minimum required by law, the capital stock shall be increased to the required amount within three months thereafter or an action may be brought or proceedings instituted to close up the business of the corporation as in the case of an insolvent corporation. If a receiver of the assets of the corporation has been appointed, all unpaid subscriptions to the stock shall be paid at such times and in such installments as the receiver or the court may direct.

INCREASE OR REDUCTION OF CAPITAL STOCK.

§ 44. Any domestic corporation may increase or reduce its capital stock in the manner herein provided, but not above the maximum or below the minimum if any, prescribed by law. If increased, the holders of the additional stock issued shall be subject to the same liabilities with respect thereto as are provided by law in relation to the original capital; if reduced, the amount of its debts and liabilities shall not exceed the amounts of its reduced capital, unless an insurance corporation, in which case the amounts of its debts and liabilities shall not exceed the amount of its reduced capital and other assets. The owner of any stock shall not be relieved from any liability existing prior to the reduction of the capital stock of any stock corporation. If a banking corporation, whether the capital be increased or reduced, its assets shall at least be equal to its debts and liabilities and the capital stock, as increased or reduced. (*Thus amended by chap. 346, Laws 1894.*)

NOTICE OF MEETING TO INCREASE OR REDUCE CAPITAL STOCK.

§ 45. Every such increase or reduction must be authorized by a vote of the stockholders owning at least a majority of the stock of the corporation, taken at a meeting of the stockholders specially called for that purpose. Notice of the meeting, stating the time, place and object, and the amount of the increase or reduction proposed, signed by a majority of the directors, shall be published once a week, for at least two successive weeks, in a newspaper in the county where its principal business office is located, if any is published therein, and a copy of such notice shall be personally served upon or duly mailed to each stockholder or member at his last-known post-office address at least three weeks before the meeting.

CONDUCT OF SUCH MEETING; CERTIFICATE OF INCREASE OR REDUCTION.

§ 46. If, at the time and place specified in the notice, the stockholders shall appear in person or by proxy, in numbers representing at least a majority of all the shares of stock, they shall organize by choosing from their number a chairman and secretary, and take a vote of those present in person or by proxy, and if a sufficient number of votes shall be given in favor of such increase or reduction, a certificate of the proceedings, showing a compliance with the provisions of this chapter, the amount of capital actually paid in, the whole amount of debts and liabilities of the corporation, and the amount of the increased or reduced capital stock, shall be made,

signed, verified and acknowledged by the chairman and secretary of the meeting, and filed in the office of the clerk of the county where its principal place of business shall be located, and a duplicate thereof in the office of the secretary of state. In case of a reduction of the capital stock, except of a railroad corporation, or a monied corporation, such certificate shall have indorsed thereon the approval of the comptroller, to the effect that the reduced capital is sufficient for the proper purposes of the corporation, and is in excess of its debts and liabilities, and in case of the increase, or reduction of the capital stock of a railroad corporation, or a monied corporation, the certificate shall have indorsed thereon the approval of the board of railroad commissioners, if a railroad corporation; of the superintendent of banks, if a corporation formed under or subject to the banking law; and of the superintendent of insurance, if an insurance corporation.

When the certificate herein provided for has been filed, the capital stock of such corporation shall be increased or reduced, as the case may be, to the amount specified in such certificate. The proceedings of the meeting at which such increase or reduction is voted, shall be entered upon the minutes of the corporation. If the capital stock is reduced, the amount of capital over and above the amount of the reduced capital shall be returned to the stockholders pro rata at such times and in such manner as the directors shall determine. (*Thus amended by chap. 700, Laws of 1893.*)

PREFERRED AND COMMON STOCK.

§ 47. Every domestic stock corporation may have preferred and common stock, and different classes of preferred stock, if the certificate of incorporation so provides or by the unanimous consent of the stockholders, and may, upon the written request of the holder of any preferred stock, by a two-thirds vote of its directors, exchange the same for common stock, and issue certificates for common stock therefor, share for share, or upon such other valuation as may have been agreed upon in the scheme for the organization of such corporation, or the issue of such preferred stock, but the total amount of such capital stock shall not be increased thereby.

PROHIBITED TRANSFERS TO OFFICERS OR STOCKHOLDERS.

§ 48. No corporation which shall have refused to pay any of its notes or other obligations when due, in lawful money of the United States, nor any of its officers or directors, shall transfer any of its property to any of its officers, directors or stockholders, directly or

indirectly, for the payment of any debt, or upon any other consideration than the full value of the property paid in cash. No conveyance, assignment or transfer of any property of any such corporation by it or by any officer, director or stockholder thereof, nor any payment made, judgment suffered, lien created or security given by it or by any officer, director or stockholder when the corporation is insolvent or its insolvency is imminent, with the intent of giving a preference to any particular creditor over other creditors of the corporation shall be valid.

Every person receiving by means of any such prohibited act or deed any property of the corporation shall be bound to account therefor to its creditors or stockholders or other trustees.

No stockholder of any such corporation shall make any transfer or assignment of his stock therein to any person in contemplation of its insolvency. Every transfer or assignment or other act done in violation of the foregoing provisions of this section shall be void.

No conveyance, assignment or transfer of any property of a corporation formed under or subject to the banking law, exceeding in value one thousand dollars shall be made by such corporation, or by any officer or director thereof, unless authorized by a previous resolution of its board of directors, except promissory notes or other evidences of debt issued or received by the officers of the corporation in the transaction of its ordinary business and except payments in specie or other current money or in bank bills made by such officers. No such conveyance, assignment or transfer shall be void in the hands of a purchaser for a valuable consideration without notice.

Every director or officer of a corporation who shall violate or be concerned in violating any provision of this section, shall be personally liable to the creditors and stockholders of the corporation of which he shall be director or an officer to the full extent of any loss they may respectively sustain by such violation.

PAYMENT BY STOCKHOLDERS OF MORTGAGE DEBT PENDING FORECLOSURE.

§ 49. Whenever default shall be made by any corporation in the payment of principal or interest of any of its bonds secured by mortgage or deed of trust of its property, any stockholder may at any time during the pendency of the foreclosure of such mortgage or deed of trust and before the sale thereunder pay to the mortgagees or grantees in such mortgage or deed, for the use and benefit of the holders of such bonds, a sum equal to such proportion of the amount due and secured to be paid by such mortgage or deed, as his stock

in such corporation shall bear to its whole capital stock, and on making such payment he shall to the extent thereof become and be interested in such mortgage or deed and protected thereby.

APPLICATION TO COURT TO ORDER ISSUE OF NEW IN PLACE OF LOST CERTIFICATE OF STOCK.

§ 50. The owner of a lost or destroyed certificate of stock, if the corporation shall refuse to issue a new certificate in place thereof, may apply to the supreme court, at any special term held in the district where he resides, or in which the principal business office of the corporation is located, for an order requiring the corporation to show cause why it should not be required to issue a new certificate in place of the one lost or destroyed. The application shall be by petition, duly verified by the owner, stating the name of the corporation, the number and date of the certificate, if known, or if it can be ascertained by the petitioner; the number of shares named therein, to whom issued, and as particular a statement of the circumstances attending such loss or destruction as the petitioner can give. Upon the presentation of the petition the court shall make an order requiring the corporation to show cause, at a time and place therein mentioned, why it should not issue a new certificate of stock in place of the one described in the petition. A copy of the petition and order shall be served on the president or other head of the corporation, or on the secretary or treasurer thereof, personally, at least ten days before the time for showing cause.

ORDER OF COURT UPON SUCH APPLICATION.

§ 51. Upon the return of the order, with proof of due service thereof, the court shall, in a summary manner, and in such mode as it may deem advisable, inquire into the truth of the facts stated in the petition, and hear the proofs and allegations of the parties in regard thereto, and if satisfied that the petitioner is the lawful owner of the number of shares, or any part thereof, described in the petition, and that the certificate therefor has been lost or destroyed, and cannot after due diligence be found, and that no sufficient cause has been shown why a new certificate should not be issued, it shall make an order requiring the corporation, within such time as shall be therein designated, to issue and deliver to the petitioner a new certificate for the number of shares specified in the order, upon depositing such security, or filing a bond in such form and with such sureties as to the court shall appear sufficient to indemnify any person other than the petitioner who shall thereafter be found to be the

lawful owner of the certificate lost or destroyed; and the court may direct the publication of such notice, either before or after making such order as it shall deem proper. Any person claiming any rights under the certificates alleged to have been lost or destroyed shall have recourse to such indemnity, and the corporation shall be discharged from all liability to such person upon compliance with such order; and obedience to the order may be enforced by attachment against the officer or officers of the corporation on proof of his or their refusal to comply with it.

FINANCIAL STATEMENT TO STOCKHOLDERS.

§ 52. Stockholders owning five per centum of the capital stock of any corporation other than a monied corporation, not exceeding one hundred thousand dollars, or three per centum where it exceeds one hundred thousand dollars, may make a written request to the treasurer or chief fiscal officer thereof, for a statement of its affairs, under oath, embracing a particular account of all its assets and liabilities, and the treasurer shall make such statement and deliver it to the person presenting the request within thirty days thereafter, and keep on file for twelve months thereafter a copy of such statement, which shall at all times during business hours be exhibited to any stockholder demanding an examination thereof; but the treasurer or such chief fiscal officer shall not be required to deliver more than one such statement in any one year. The supreme court, or any justice thereof, may upon application, for good cause shown, extend the time for making and delivering such certificate. For every neglect or refusal of the treasurer or other chief fiscal officer thereof to comply with the provisions of this section he shall forfeit and pay to the person making such request the sum of fifty dollars, and the further sum of ten dollars for every twenty-four hours thereafter until such statement shall be furnished.

EXHIBITION OF BOOKS BY TRANSFER AGENT OF FOREIGN CORPORATION.

§ 53. The transfer agent in this state of any foreign corporation whether such agent shall be a corporation or a natural person, shall, at all times during the usual hours of transacting business, exhibit to any stockholder of such corporation, when required by him, the transfer book, and a list of the stockholders thereof, if in his power to do so, and for every violation of the provisions of this section, such agent, or any officer or clerk of such agent, shall forfeit the sum of

two hundred and fifty dollars, to be recovered by the person to whom such refusal was made.

LIABILITIES OF STOCKHOLDERS.

§ 54. The stockholders of every stock corporation shall, jointly and severally, be personally liable to its creditors, to an amount equal to the amount of the stock held by them respectively, for every debt of the corporation, until the whole amount of its capital stock issued and outstanding at the time such debt was incurred shall have been fully paid. The stockholders of every stock corporation shall, jointly and severally, be personally liable for all debts due and owing to any of its laborers, servants or employes other than contractors, for services performed by them for such corporation. Before such laborer, servant or employe shall charge such stockholder for such services, he shall give him notice in writing, within thirty days after the termination of such services that he intends to hold him liable, and shall commence an action therefor within thirty days after the return of an execution unsatisfied against the corporation upon a judgment recovered against it for services. No person holding stock in any corporation as collateral security, or as executor, administrator, guardian or trustee, unless he shall have voluntarily invested the trust funds in such stock, shall be personally subject to liability as a stockholder; but the person pledging such stock shall be considered the holder thereof, and shall be liable as stockholder; and the estates and funds in the hands of such executor, administrator, guardian or trustee shall be liable in the like manner and to the same extent as the testator or intestate, or the ward, or person interested in such trust fund would have been, if he had been living and competent to act and held the same stock in his own name, unless it appears that such executor, administrator, guardian or trustee voluntarily invested the trust funds in such stocks, in which case he shall be personally liable as a stockholder.

LIMITATION OF STOCKHOLDER'S LIABILITY.

§ 55. No action shall be brought against a stockholder for any debt of the corporation until judgment therefor has been recovered against the corporation, and an execution thereon has been returned unsatisfied in whole or in part, and the amount due on such execution shall be the amount recoverable, with costs against the stockholder. No stockholder shall be personally liable for any debt of the corporation not payable within two years from the time it is

contracted, nor unless an action for its collection shall be brought against the corporation within two years after the debt becomes due; and no action shall be brought against a stockholder after he shall have ceased to be a stockholder, for any debt of the corporation, unless brought within two years from the time he shall have ceased to be a stockholder.

INCREASE OR REDUCTION OF NUMBER OF SHARES.

§ 56. A stock corporation may provide that the number of shares into which its capital stock is divided shall be increased or reduced by a two-thirds vote of all stock duly represented at a meeting held and conducted in like manner, and upon filing a like certificate, as required for the increase or reduction of its capital stock. If such increase or reduction of the number of shares be so authorized, the corporation shall issue to each stockholder certificates for as many shares of the new stock as equal in par value the shares of the old stock held by him, upon surrender and cancellation of such old stock. This section does not authorize the increase or reduction of the capital stock of such corporation. (*This section added by chap. 196, Laws 1893.*)

THE RAILROAD LAW.

Being chapter 565 of the Laws of 1890, as amended by chapters 362 and 367 of the Laws of 1891, and by chapters 306, 460, 534, 676, 700 and 702 of the Laws of 1892, and by chapters 316, 433, 434 and 546 of the Laws of 1893, and by chapters 452, 648, 693 and 723 of the Laws of 1894, and by chapters 454, 513, 545, 921 and 933 of the Laws of 1895.

AN ACT in relation to railroads, constituting chapter thirty-nine of the general laws.

CHAPTER XXXIX OF THE GENERAL LAWS.

THE RAILROAD LAW.

ARTICLE 1. Organization; general powers; location (§§ 1-21).
2. Construction; operation; management (§§ 30-59).
3. Consolidation; lease; sale; reorganization (§§ 70-83).
4. Street surface railroads (§§ 90-110).
5. Other railroads in cities and counties (§§ 120-142).
6. Board of railroad commissioners (§§ 150-171).

ARTICLE I.

ORGANIZATION, GENERAL POWERS, LOCATION.

SECTION 1. Short title.
2. Incorporation.
3. Supplemental certificate.
4. Additional powers conferred.
   1. Entry upon land for purpose of survey.
   2. Acquisition of real property.
   3. Construction of road.
   4. Intersection of streams, highways, plank-roads, turnpikes and canals.
   5. Intersection of other railroads.
   6. Buildings and stations.
   7. Transportation of persons and property.
   8. Time and manner of transportation.
   9. Purchase of lands and stock in other states.
5. When corporate powers to cease.
6. Location of route.
7. Acquisition of title to real property.
8. Railroads through public lands.
9. Railroads through Indian lands.
10. Railroads through Chautauqua assembly grounds.
11. Intersection of highways, additional lands for.

SECTION 12. Intersection of other railroads.
13. Change of route, grade or terminus.
14. Construction of part of line in another state.
15. Two roads having the same location.
16. Tunnel railroads.
17. Railroads in foreign countries.
18. Additional corporate powers of such road.
19. Location of principal office of such road.
20. Individual, joint-stock association, or other corporation may lay down and maintain railroad tracks in certain cases.
21. When electric light and power corporation may become a railroad corporation.
21. Certain roads to be operated in the summer only.

SHORT TITLE.

SECTION 1. This chapter shall be known as the railroad law.

INCORPORATION.

§ 2. Fifteen or more persons may become a corporation, for the purpose of building, maintaining and operating a railroad, or of maintaining and operating a railroad already built, not owned by a railroad corporation, or for both purposes, by executing, acknowledging and filing a certificate, in which shall be stated :

1. The name of the corporation.
2. The number of years it is to continue.
3. The kind of road to be built or operated.
4. Its length and termini.
5. The name of each county in which any part of it is to be located.
6. The amount of capital stock, which shall not be less than ten thousand dollars for every mile of road built, or proposed to be built, except a narrow-gauge road, when it shall not be less than three thousand dollars for every such mile.
7. The number of shares into which the capital stock is to be divided.
8. If the capital stock is to consist of common and preferred stock, the amount of each class and the rights and privileges of the latter over the former.
9. The names and post-office addresses of the directors of the corporation, not less than nine, who shall manage its affairs for the first year.
10. The place where its principal office is to be located.
11. If a street surface railroad, the names and description of the streets, avenues and highways in which the road is to be constructed.
12. If it is to be a railway corporation, specified in article five of

this chapter, the statements required by that article to be inserted in the certificate of incorporation.

13. The name and post-office address of each subscriber to the certificate and the number of shares of stock he agrees to take.

Such certificate shall have indorsed thereon, or annexed thereto, to be taken as a part thereof, an affidavit of at least three of such directors that at least ten per cent. of the minimum amount of capital stock authorized by law has been subscribed thereto, and paid in good faith and in cash to the directors named in the certificate, and that it is intended in good faith to build, maintain and operate the road mentioned therein. In case of a railway corporation specified in article five of this chapter, the affidavit of the directors shall show that the full amount of such capital stock has been in good faith subscribed, and there shall be annexed to the certificate of incorporation and as a part thereof the certificate of the railroad commissioners showing the organization of the corporation for the purposes mentioned in the certificate.

The filing of every certificate, where the amount of stock required by this section has not been in good faith subscribed and paid in cash, shall be void. (*Thus amended by chap. 676, Laws 1892.*)

See, also, chap. 238, Laws 1893, *post.*

SUPPLEMENTAL CERTIFICATE.

§ 3. If the names and places of residence of the directors of the corporation have been omitted from the certificate, when executed and acknowledged, and thereafter the requisite number of directors has been chosen at a meeting of the subscribers to the certificate, a supplemental certificate, containing their names and places of residence, may be filed with such certificate with the same force and effect as if the names and places of residence of the directors had been originally inserted therein.

ADDITIONAL POWERS CONFERRED.

§ 4. Subject to the limitations and requirements of this chapter, every railroad corporation, in addition to the powers given by the general and stock corporation laws, shall have power:

ENTRY UPON LANDS FOR PURPOSES OF SURVEY.

1. To cause the necessary examination and survey for its proposed railroad to be made for the selection of the most advantageous route; and for such purpose, by its officers, agents or servants, to enter

upon any lands or waters subject to liability to the owner for all damages done.

ACQUISITION OF REAL PROPERTY.

2. To take and hold such voluntary grants of real estate and other property as shall be made to it to aid in the construction, maintenance and accommodation of its railroad; and to acquire by condemnation such real estate and property as may be necessary for such construction, maintenance and accommodation in the manner provided by law, but the real property acquired by condemnation shall be held and used only for the purposes of the corporation during the continuance of the corporate existence.

CONSTRUCTION OF ROAD.

3. To lay out its road not exceeding six rods in width, and to construct the same; and, for the purpose of cuttings and embankments, to take such additional lands as may be necessary for the proper construction and security of the road; and to cut down any standing tree that may be in danger of falling on the road, upon making compensation therefor.

INTERSECTION OF STREAMS, HIGHWAYS, PLANK-ROADS, TURNPIKES AND CANALS.

4. To construct its road across, along or upon any stream, water-course, highway, plank-road, turnpike, or across any of the canals of the state, which the route of its road shall intersect or touch.

INTERSECTION OF OTHER RAILROADS.

5. To cross, intersect, join, or unite its railroad with any other railroad before constructed, at any point on its route and upon the ground of such other railroad corporation, with the necessary turn-outs, sidings, switches and other conveniences in furtherance of the objects of its connections.

BUILDINGS AND STATIONS.

6. To erect and maintain all necessary and convenient buildings, stations, fixtures and machinery for the accommodation and use of its passengers, freight and business.

TRANSPORTATION OF PERSONS AND PROPERTY.

7. To take and convey persons and property on its railroad by the power or force of steam or of animals, or by any mechanical power, except where such power is specially prescribed in this chapter, and to receive compensation therefor.

TIME AND MANNER OF TRANSPORTATION.

8. To regulate the time and manner in which passengers and property shall be transported, and the compensation to be paid therefor.

PURCHASE OF LANDS AND STOCK IN OTHER STATES.

9. To acquire and dispose of any real property in any other state through which any part of its railroad is operated, and stock in any foreign corporation owning lands in another state for the purpose of securing for such railroad corporation in this state a permanent supply of fuel for its use, and stock of corporations in this state, formed for the purpose of erecting union railway depots.

10. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating its railroad and to issue and dispose of its bonds for any amount so borrowed, and to mortgage its property and franchises to secure the payment of any debts contracted by the company for the purposes aforesaid. (*Thus amended by chap. 676, Laws 1892.*)

WHEN CORPORATE POWERS TO CEASE.

§ 5. If any domestic railroad corporation shall not, within five years after its certificate of incorporation is filed, begin the construction of its road and expend thereon ten per centum of the amount of its capital, or shall not finish its road and put it in operation in ten years from the time of filing such certificate, its corporate existence and powers shall cease. But if any such steam railroad corporation whose certificate of incorporation was filed since the year eighteen hundred and eighty, and whose road as designated in such certificate is wholly within one county and not more than ten miles in length, has acquired the real property necessary for its roadbed by purchase, its corporate existence and powers shall not be deemed to have ceased because of its failure to comply with the provisions of this article; and the time for beginning the construction of its road and expending thereon ten per centum of its capital, is extended until thirteen years from the date of the filing of such certificate and the time for finishing its road and putting it in operation, is extended until eighteen years from the date of such filing. (*Thus amended by chap. 433, Laws 1893.*)

LOCATION OF ROUTE.

§ 6. Every railroad corporation, except a street surface railroad corporation and an elevated railway corporation, before construct-

ing any part of its road in any county named in its certificate of incorporation, or instituting any proceeding for the condemnation of real property therein, shall make a map and profile of the route adopted by it in such county, certified by the president and engineer of the corporation or a majority of the directors, and file it in the office of the clerk of the county in which the road is to be made. The corporation shall give written notice to all actual occupants of the lands over which the route of the road is so designated, and which has not been purchased by or given to it, of the time and place such map and profile were filed, and that such route passes over the lands of such occupants. Any such occupant or the owner of the land aggrieved by the proposed location, may, within fifteen days after receiving such notice, give ten days' written notice to such corporation and to the owners or occupants of lands to be affected by any proposed alteration, of the time and place of an application to a justice of the supreme court, in the judical district where the lands are situated, by petition duly verified, for the appointment of commissioners to examine the route.

The petition shall state the objections to the route designated, shall designate the route to which it is proposed to alter the same, and shall be accompanied with a survey, map and profile of the route designated by the corporation, and of the proposed alteration thereof, and copies thereof shall be served upon the corporation and such owners or occupants with the notice of the application. The justice may, upon the hearing of the application, appoint three disinterested persons, one of whom must be a practical civil engineer, commissioners to examine the route proposed by the corporation, and the route to which it is proposed to alter the same, and after hearing the parties, to affirm the route originally designated, or adopt the proposed alteration thereof, as may be consistent with the just rights of all parties and the public, including the owners or occupants of lands upon the proposed alteration; but no alteration of the route shall be made except by the concurrence of the commissioner, who is a practical civil engineer, nor which will cause greater damage or injury to lands or materially greater length of road than the route designated by the corporation, nor which shall substantially change the general line adopted by the corporation.

The commissioners shall, within thirty days after their appointment, make and certify their written determination, which with the petition, map, survey and profile, and any testimony taken before them shall be immediately filed in the office of the county clerk of the county. Within twenty days after such filing, any party may,

by written notice to the other, appeal to the general term of the supreme court from the decision of the commissioners, which appeal shall be heard and decided at the next term held in the department in which the lands of the petitioners or any of them are situated, for which the same can be noticed, according to the rules and practice of the court. On the hearing of such appeal, the court may affirm the route proposed by the corporation or may adopt that proposed by the petitioner.

The commissioners shall each be entitled to six dollars per day for their services, and to their reasonable and necessary expenses, to be paid by the persons who applied for their appointment. If the route of the road, as designated by the corporation, is altered by the commissioners, or by the order of the court, the corporation shall refund to the petitioner the amount so paid, unless the decision of the commissioners is reversed upon appeal taken by the corporation. No such corporation shall institute any proceedings for the condemnation of real property in any county until after the expiration of fifteen days from the service by it of the notice required by this section. Every such corporation shall transmit to the board of railroad commissioners the following maps, profiles and drawings exhibiting the characteristics, of their road, to wit: A map or maps showing the length and direction of each straight line; the length and radius of each curve; the point of crossing of each town and county line, and the length of line of each town and county accurately determined by measurements to be taken after the completion of the road.

Whenever any part of the road is completed and used, such maps and profiles of such completed part shall be filed with such board within three months after the completion of any such portion and the commencement of its operation; and when any additional portion of the road shall be completed and used, other maps shall be filed within the same period of time, showing the additional parts so completed. If the route, as located upon the map and profile filed in the office of any county clerk, shall have been changed, it shall also cause a copy of the map and profile filed in the office of the railroad commissioners, so far as it may relate to the location in such county, to be filed in the office of the county clerk. (*Thus amended by chap. 676, Laws 1892.*)

ACQUISITION OF TITLE TO REAL PROPERTY.

§ 7. All real property, required by any railroad corporation for the purpose of its incorporation, shall be deemed to be required for

a public use. If the corporation is unable to agree for the purchase of any real property, or of any right, interest or easement therein, required for such purpose, or if the owner thereof shall be incapable of selling the same, or if after diligent search and inquiry the name and residence of such owner cannot be ascertained, it shall have the right to acquire title thereto by condemnation. It shall also have such right in the following cases:

1. Where title to real property has been acquired, or attempted to be acquired, and has been found to be invalid or defective.

2. Where its railroad shall be lawfully in possession of a lessee, mortgagee, trustee or receiver, and additional real property shall be required for the purpose of running or operating such railroad.

3. Where it shall require any further rights to lands or the use of lands for switches, turnouts, or for filling any structures of its road, or for constructing, widening or completing any of its embankments or roadbeds, by means of which greater safety or permanency may be secured, and such lands shall be contiguous to such railroad and reasonably accessible to the place where the same are to be used for such purpose or purposes.

4. Where it shall require any further right to lands or to the use of lands for the flow of water occasioned by railroad embankments or structures now in use, or hereafter rendered necessary, or for any other purpose necessary for the operation of such railroad, or for any right to take and convey water from any spring, pond, creek or river to such railroad, for the uses and purposes thereof, together with the right to build or lay aqueducts or pipes for the purpose of conveying such water, and to take up, relay and repair the same, or for any right of way required for carrying away or diverting any water, stream or floods from such railroad for the purpose of protecting its road or for the purpose of preventing any embankment, excavation or structure of such railroad from injuring the property of any person who may be rendered liable to injury thereby.

Waters commonly used for domestic, agricultural or manufacturing purposes, shall not be taken by condemnation to such an extent as to injuriously interfere with such use in the future. No railroad corporation shall have the right to acquire by condemnation any right or easement in or to any real property owned or occupied by any other railroad corporation, except the right to intersect or cross the tracks and lands owned or held for right of way by such other corporation without appropriating or affecting any lands owned or held for depots or gravel-beds. (*Thus amended by chap. 676, Laws 1892.*)

RAILROADS THROUGH PUBLIC LANDS.

§ 8. The commissioners of the land office may grant to any domestic railroad corporation any land belonging to the people of the state, except the reservation at Niagara and the Concourse lands on Coney island, which may be required for the purposes of its road on such terms as may be agreed on by them; or such corporation may acquire title thereto by condemnation; and the county or town officers having charge of any land belonging to any county or town, required for such corporation for the purpose of its road, may grant such land to the corporation for such compensation as may be agreed upon.

RAILROADS THROUGH INDIAN LANDS.

§ 9. Any railroad corporation may contract with the chiefs of any nation of Indians, over whose lands it may be necessary to construct its railroad, for the right to make such road upon such lands, but such contract shall not vest in the corporation the fee to the land, nor the right to occupy the same for any purposes other than may be necessary for the construction, occupancy and maintenance of such railroad, and such contract shall not be valid or effectual until it shall be ratified by the county court of the county where the land shall be situated.

RAILROADS THROUGH CHAUTAUQUA ASSEMBLY GROUNDS.

§ 10. No railroad corporation shall build, construct or operate any railroad in, upon, over or through the grounds, lands or premises owned by the Chautauqua assembly corporation in the town and county of Chautauqua, without a written consent of a majority of the board of trustees of such assembly corporation.

INTERSECTION OF HIGHWAYS, ADDITIONAL LANDS FOR.

§ 11. No railroad corporation shall erect any bridge or other obstruction across, in or over any stream or lake, navigated by steam or sail boats at the place where it may be proposed to be erected, nor shall it construct its road in, upon or across any street of any city without the assent of the corporation of such city, nor across, upon or along any highway in any town or street in any incorporated village, without the order of the supreme court of the district in which such highway or street is situated, made at a special term thereof, after at least ten days' written notice of the intention to make application for such order shall have been given to the commissioners of highways of such town, or board of trustees of the village in which such highway or street is situated. Every railroad corporation which shall build its road along, across or upon any stream, watercourse,

street, highway, plankroad or turnpike, which the route of its road shall intersect or touch, shall restore the stream or watercourse, street, highway, plankroad and turnpike, thus intersected or touched, to its former state, or to such state as not to have unnecessarily impaired its usefulness, and any such highway, turnpike or plankroad may be carried by it, under or over its track, as may be found most expedient. Where an embankment or cutting shall make a change in the line of such highway, turnpike or plankroad desirable, with a view to a more easy ascent or descent, it may construct such highway, turnpike or plankroad, on such new line as its directors may select, and may take additional lands therefor by condemnation if necessary. Such lands so taken shall become part of such intersecting highway, turnpike or plankroad, and shall be held in the same manner and by the same tenure as the adjacent parts of the highway, turnpike or plankroad are held for highway purposes. Every railroad corporation shall pay all damages sustained by any turnpike or plankroad corporation in consequence of its crossing or occupation of any turnpike or plankroad, and in case of inability to agree upon the amount of such damages it may acquire the right to such crossing or occupation by condemnation.

INTERSECTION OF OTHER RAILROADS.

§ 12. Every railroad corporation, whose road is or shall be intersected by any new railroad, shall unite with the corporation owning such new railroad in forming the necessary intersections and connections, and grant the requisite facilities therefor. If the two corporations can not agree upon the amount of compensation to be made therefor upon the line or lines, grade or grades, points or manner of such intersections and connections, the same shall be ascertained and determined by commissioners, one of whom must be a practical civil engineer and surveyor, to be appointed by the court, as is provided in the condemnation law. Such commissioners may determine whether the crossing or crossings of any railroad before constructed shall be beneath, at, or above the existing grade of such railroad, and upon the route designated upon the map of the corporation seeking the crossing or otherwise. All railroad corporations whose roads are or shall hereafter be so crossed, intersected or joined, shall receive from each other and forward to their destination all goods, merchandise and other property intended for points on their respective roads, with the same dispatch as, and at a rate of freight not exceeding the local tariff rate charged for similar goods, merchandise and other property, received at or forwarded from the same

point for individuals and other corporations. (*Thus amended by chap. 676, Laws 1892.*)

CHANGE OF ROUTE, GRADE OR TERMINUS.

§ 13. Every railroad corporation, except elevated railway corporations, may, by a vote of two-thirds of all its directors, alter or change the route or any part of the route of its road or its termini, or locate such route, or any part thereof, or its termini, in a county adjoining any county named in its certificate of incorporation, if it shall appear to them that the line can be improved thereby, upon making and filing in the clerk's office of the proper county a survey, map and certificate of such alteration or change. If the same is made after the corporation has commenced grading the original route, compensation shall be made to all persons for injury done by such grading to any lands donated to the corporation. But neither terminus can be changed, under this section, to any other county than one adjoining that in which it was previously located ; nor can the route or terminus of any railroad be so changed in any town, county or municipal corporation, which has issued bonds and taken any stock or bonds in aid of the construction of such railroad without the written consent of a majority of the taxpayers appearing upon the last assessment-roll of such town, county or municipal corporation, unless such terminus, after the change, will remain in the same village or city as theretofore. No alteration of the route of any railroad after its construction shall be made, or new line or route of road laid out or established, as provided in this section, in any city or village, unless approved by a vote of two-thirds of the common council of the city or trustees of the village. Any railroad corporation whose road as located terminates at any railroad previously constructed or located, whereby communication might be had with any incorporated city of the state, may amend its certificate of incorporation so as to terminate its road at a point of its intersection with any railroad subsequently located to intersect it, and thereby, by itself or its connections, afford communication with such city, with the consent of the stockholders owning two-thirds of the stock of the corporation. Any railroad corporation may, by a vote of its directors, change the grade of any part of its road, except in the city of Buffalo, in such manner as it may deem necessary to avoid accidents and to facilitate the use of such road ; and it may by such vote alter the grade of its road, for such distance and in such manner as it may deem necessary, on each or either side of the place where the grade of its road has been changed by direction

of the superintendent of public works, at any point where its road crosses any canal or canal feeder, except in the city of Buffalo. The superintendent of public works shall have a general and supervisory power over that part of any railroad which passes over, or approaches within ten rods of, any canal or feeder belonging to the state so far as may be necessary to preserve the free and perfect use or such canals or feeders, or to make any repairs, improvements or alterations in the same. Any railroad corporation whose tracks cross any of the canals of the state, and the grade of which may be raised by direction of the superintendent of public works, with the assent of such superintendent, may lay out a new line of road to cross such canal at a more favorable grade, and may extend such new line and connect the same with any other line of road owned by such corporation, upon making and filing in the clerk's office of the proper county a survey map and certificate of such new or altered line. No portion of the track of any railroad, as described in its certificate of incorporation, shall be abandoned under this section. (*Thus amended by chap. 676, Laws 1892.*)

CONSTRUCTION OF PART OF LINE IN ANOTHER STATE.

§ 14. Any railroad corporation, whose proposed railroad is to be built between any two points in this state, may, by a vote of two-thirds of all its directors, locate and construct a part of its road in an adjoining state, and the sections of its road within this state shall be deemed a connected line, according to the certificate of incorporation, and the directors may reduce the capital stock of the corporation to such amount as may be deemed proper, but not less than ten thousand dollars per mile for the number of miles of roads to be actually constructed in this state.

TWO ROADS HAVING THE SAME LOCATION.

§ 15. If two railroad corporations for a portion of their respective lines embrace the same location of line, or if their lines connect, or are tributary to each other, such corporations may by agreement provide for the construction by one of them of so much of such line as is common to both, or connects with its own line, and for the manner and terms upon which the business thereon shall be performed, and the corporation that is not to construct the part of the line which is common to both, may amend its certificate of incorporation, and terminate its line at the point of intersection, and may reduce its capital to a sum not less than ten thousand dollars for each mile of road proposed to be constructed in such amended certificate.

TUNNEL RAILROADS.

§ 16. When, according to the route and plan for the building of its road, adopted by any railroad corporation, including corporations organized under chapter one hundred and forty of the laws of eighteen hundred and fifty, and the acts amendatory thereof and supplementary thereto, it shall be necessary or proper to build it or any part of it underground, or to tunnel or bridge any river or waters, such corporation may enter upon, acquire title to and use such lands under water and uplands, except on or along any canals of the state as shall be necessary for the purpose herein mentioned, and may construct, erect and secure the necessary foundations and other structures which may be required for operating and maintaining such road or connecting the same with another, and to acquire, in the manner provided by law, such land or rights or easements in lands along its route, upon, over or beneath the surface thereof as may be necessary for the construction of its road and making such connections. Where such road runs underneath the ground, at such depth as to enable the corporation to tunnel the same, such tunnel shall be so built and at all times kept in such condition as to make the surface of the ground above the same and in the neighborhood thereof firm and safe for buildings and other erections thereon and if surface excavations are made the surface shall be restored to its former condition as soon as can be done, except so far as may be actually required for ventilation of the tunnel beneath the same or access thereto. Such road or any part of it may be built within the limits of any city or incorporated village of this state and run by means of a tunnel underneath any of the streets, roads or public places thereof, provided such corporation shall, before constructing the same underneath any such street, road or public place have obtained the consent of the owners of one-half in value of the property bounded on the line of such street, road or public place, and the consent of the board of trustees of the village, by a resolution adopted at a regular meeting and entered on the records of the board, or of the proper authorities of the city having control of such streets, roads or public places. If the consent of such property-owners can not be obtained, the general term of the supreme court in the district in which said city or village or any part thereof is situated, may upon application appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be built underneath such streets, roads or public places, or any of them, and in what manner the same may be so built with the least damage to the surface, and to the use of the

surface by the public, and the determination of the commissioners confirmed by the court may be taken in lieu of the consent of the property-owners. All railroad corporations constructing their road under this section shall be subject to all the provisions of this chapter applicable thereto. Any other railroad corporation may connect its road therewith, at such points or places as it may elect, and where such connections shall be made by connecting roads, the railroad corporations owning such roads shall build, at their joint expense, and for their joint use, such passenger and freight depots, and other accommodations for handling passengers and freight, as may be required for the convenience of the public. All railroad corporations, constructing any tunnel under this section, shall be liable to any person or corporation for all damages which may be sustained by reason of the construction of such tunnel. Whenever it shall be necessary in constructing any railroad authorized by this section through any city or incorporated village, to alter the position or course of any sewer, or water or gas pipes, it shall be done at the expense of the railroad corporation under the direction of the department or corporation having charge thereof, so as not to interfere with such work. In all cases the uses of streets, docks and lands beneath which such railroad is constructed, and on the route thereof and the right of way beneath the same, for the purpose of such railroad, shall be considered, and is hereby declared, a public use, consistent with and one of the uses for which streets and docks are publicly held. No public park or square in any city or village of this state shall be used or occupied by any corporation for any of the purposes of this section, and every road constructed hereunder in or through any such street or public place shall be wholly underground and constructed in a tunnel and not otherwise, but nothing in this section shall operate to revive any charter or franchise heretofore granted by or in the city of Brooklyn. This act does not authorize the construction of any bridge over or across the East or North rivers. (*Thus amended by chap. 316, Laws 1893.*)

RAILROADS IN FOREIGN COUNTRIES.

§ 17. A railroad corporation may be formed under this chapter for the purpose of constructing, maintaining and operating in any foreign country a railroad for public use in the transportation of persons and property, or for the purpose of maintaining and operating therein any railroad already constructed, in whole or in part, for the like public use, and of constructing, maintaining and operating,

in connection therewith, telegraph lines and lines of steamboats or sailing vessels. Any corporation formed for the construction and operation of a railroad by stationary power, may construct, operate and maintain a railroad in any other state or country, if not in conflict with the laws thereof, but the assent of the inventors or patentees of the method of propulsion used must be first obtained in the same manner and to the same extent as would be necessary within the United States. (*Thus amended by chap. 676, Laws 1892.*)

ADDITIONAL CORPORATE POWERS OF SUCH ROAD.

§ 18. The corporation specified in the preceding section shall have the following additional powers:

1. To expend money in making preliminary examinations and surveys for its proposed railroad, telegraph lines, and lines of steamboats and sailing vessels, and in acquiring from foreign countries, nations or governments, the grants, concessions and privileges herein authorized.

2. To take and receive from foreign countries, nations and governments, such grants, concessions or privileges, for the construction, acquisition, maintenance and operation of railroads, telegraph lines and vessels, as may be consistent with the purposes of the corporation, and as may be granted and conceded to it, and to hold the same, under such restrictions and with such duties and liabilities as may be fixed by the laws of such foreign country, nation or government, or as may be annexed to such grants or concessions.

3. To construct, acquire, maintain and operate the lines of railroad, telegraph and shipping provided for by its certificate of incorporation, and to take and hold by purchase or by voluntary grant such real estate and other property in foreign countries as may be necessary and convenient for the construction, maintenance and accommodation of such lines, and to sell, convey, mortgage or lease such real estate or other property; and to acquire by purchase or otherwise any railroad or lines of telegraph constructed or in process of construction in any foreign country, and any grants, concessions, franchises, rights, privileges and immunities relating thereto, and to mortgage or sell and convey the same, or any part of its property to any person or corporation created by this or any other state or foreign government, subject to the laws of the country or countries where such property may be, and the power of sale hereby granted shall be exercised only by a majority of the entire board of directors of the corporation, with the written concurrence of the holders of two-thirds in amount of its capital stock.

4. To take and convey persons and property on its transportation lines by the power or force of steam or of animals, or by mechanical or other power, and receive compensation therefor subject to the laws of the place or country where the same are situated.

5. To acquire and use such real estate and other property in this state as may be necessary in the conduct of its business, but the value of such real estate held at any one time shall not exceed the sum of one million dollars.

LOCATION OF PRINCIPAL OFFICE OF SUCH ROAD.

§ 19. Every such corporation shall maintain its principal office within this state and shall have, during business hours, an officer or agent upon whom service of process may be made, and shall hold in this state at least one meeting of the stockholders in each year for the choice of directors, which shall be known as the annual meeting and be held at the time and place fixed by the by-laws of the corporation. (*Thus amended by chap. 676, Laws 1892.*)

INDIVIDUAL, JOINT STOCK ASSOCIATION, OR OTHER CORPORATION MAY LAY DOWN AND MAINTAIN RAILROAD TRACKS IN CERTAIN CASES.

§ 20. Any individual, joint stock association or corporation, engaged in any lawful business in this state, may, except in any city of the state, lay down and maintain such railroad tracks on or across any street or highway, not exceeding three miles in length, as shall be necessary for the transaction of its business, and to connect any place of business owned by them with the track of any railroad corporation, and render such place of business more accessible to the public, upon obtaining the written consent of the owners of all the lands bounded on and of the local authorities having control of that portion of the street or highway, upon which it is proposed to construct or operate such railroad. If the consent of such property owners can not be obtained, the general term of the supreme court of the department in which such railroad is to be constructed, may upon application, appoint three commissioners, who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and the amount of damages, if any, to be paid to such property owners, and their determination confirmed by the court may be taken in lieu of the consent of the property owners. But no such railroad shall be so located, graded, built or operated as to interfere with or obstruct the traveled part of any highway, or its

use as a highway, or the use of any street or highway intersecting the same.

WHEN AN ELECTRIC LIGHT AND POWER CORPORATION MAY BECOME A RAILROAD CORPORATION.

§ 21. When all the stockholders of any domestic electric light and power company incorporated under a general law, having not less than five stockholders, and actually carrying on business in this state, shall execute and file in the offices in which it* original certificates of incorporation are filed an amended certificate of incorporation, complying in every other respect than as to the number of signers and directors, who shall be not less than five, with the provisions of the railway law, and in which certificate the corporate name of such corporation shall be amended by adding before the word "company," in its corporate name, the words "and railroad," or the words "railroad and land," such corporation shall have the right to build, maintain and operate by electricity, as a motive power, a railroad not exceeding twenty miles in length and within that distance from the power station and not to exceed four miles in length in any city, and such corporation shall otherwise be subject to all the provisions of this chapter and have all the powers, rights and privileges conferred by it upon railroad corporations, provided that no such corporation shall construct any railroad which is in whole or in part a street surface railroad, without complying with the provisions of article four of this chapter. Upon filing such certificate such corporation shall also have the right to acquire by gift or voluntary purchase and sale land not exceeding two thousand acres, along the line or contiguous to said railroad, and to hold, improve, lease and sell the same. (*Thus amended by chap. 648, Laws 1894.*)

* § 21. Any corporation, whose railroad is or shall be not longer than sixteen miles and is or shall be in large part intended for or used in summer travel or the convenience of summer sojourners need not operate its road beyond the months of June, July, August and September, inclusive. The motive power may be electricity. If the road be not longer than ten miles, such corporation may fix and collect fare for transporting each passenger, together with ordinary baggage, if any, not to exceed fifteen cents for each mile and fraction thereof. (*This section added to Railroad Law by chap. 700, Laws 1892.*)

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* So in the original.

ARTICLE II.

CONSTRUCTION, OPERATION AND MANAGEMENT.

SECTION 30. Liability of corporation to employes of contractor.
31. Weight of rail.
32. Fences, farm-crossings and cattle-guards.
33. Sign-boards and flagmen at crossings.
34. Notice of starting trains; no preferences.
35. Accommodation of connecting roads.
36. Locomotives must stop at grade crossings.
37. Rates of fare.
38. Legislature may alter or reduce fare.
39. Penalty for excessive fare.
40. Passengers refusing to pay fare may be ejected.
41. Extra fare for sleeping car.
42. Persons employed as drivers and conductors.
43. Conductors and employes must wear badges.
44. Checks for baggage.
45. Penalties for injury to baggage.
46. Unclaimed freight and baggage.
47. Tickets and checks for connecting steamboats.
48. Rights and liabilities as common carriers.
49. Duties imposed.
1. Switches.
2. Warning signals.
3. Guard posts.
4. Automatic couplers.
5. Automatic or other safety brake.
6. Tools in passenger cars.
7. Water.
50. Railroad commissioners may approve other safeguards.
51. Use of stoves or furnaces prohibited.
52. Canada thistles to be cut.
53. Riding on platform; walking along track.
54. Corporations may establish ferries.
55. Certain railroads may cease operations in winter.
56. Mails.
57. Corporations must make annual report.
58. When conductors and brakemen may be policemen.
59. Requisites to exercise of powers of future railroad corporations.

LIABILITY OF CORPORATION TO EMPLOYES OF CONTRACTOR.

§ 30. An action may be maintained against any railroad corporation by any laborer for the amount due him from any contractor for the construction of any part of its road, for ninety or any less number of days' labor performed by him in constructing such road, if within twenty days thereafter a written notice shall have been served upon the corporation, and the action shall have been commenced after the expiration of ten days and within six months after the ser-

vice of such notice, which shall contain a statement of the month and particular days upon which the labor was performed and for which it was unpaid, the price per day, the amount due, the name of the contractor from whom due, and the section upon which performed, and shall be signed by the laborer or his attorney and verified by him to the effect that of his own knowledge the statements contained in it are true. The notice shall be served by delivering the same to an engineer, agent or superintendent having charge of the section of the road, upon which the labor was performed, personally, or by leaving it at his office or usual place of business with some person of suitable age or discretion; and if the corporation has no such agent, engineer or superintendent, or in case he can not be found and has no place of business open, service may in like manner be made on any officer or director of the corporation.

WEIGHT OF RAIL.

§ 31. The rail used in the construction or the relaying of the track of every railroad hereafter built or relaid in whole or in part, shall be of iron or steel, weighing not less than twenty-five pounds to the lineal yard on narrow gauge roads, and on all other roads not less than fifty-six pounds to the lineal yard on grades of one hundred and ten feet to the mile or under, and not less than seventy pounds to the lineal yard on grades of over one hundred and ten feet to the mile, except for turnouts, sidings and switches.

FENCES, FARM-CROSSINGS AND CATTLE-GUARDS.

§ 32. Every railroad corporation, and any lessee or other person in possession of its road, shall, before the lines of its roads are opened for use, and so soon as it has acquired the right of way for its roadway erect and thereafter maintain fences on the sides of its road of height and strength sufficient to prevent cattle, horses, sheep and hogs from going upon its roads from the adjacent lands with farm crossings and openings with gates therein at such farm crossings whenever and wherever reasonably necessary for the use of the owners and occupants of the adjoining lands, and shall construct where not already done, and hereafter maintain cattle-guards at all road crossings, suitable and sufficient to prevent cattle, horses, sheep and hogs from going upon its railroad. So long as such fences are not made, or are not in good repair, the corporation, its lessees or other person in possession of its road, shall be liable for all damages done by their agents or engines or cars to any domestic animals thereon. When made and in good repair, they shall not be

liable for any such damages, unless negligently or willfully done. A sufficient post and wire fence of requisite height shall be deemed a lawful fence within the provisions of this section, but barbed wire shall not be used in its construction. No railroad need be fenced, when not necessary to prevent horses, cattle, sheep and hogs from going upon its track from the adjoining lands. Every adjoining landowner, who, or whose grantor, has received compensation for fencing the line of land taken for a railroad, and has agreed to build and maintain a lawful fence along such line, shall build and maintain such fence. If such owner, his heir or assign shall not build such fence, or if built, shall neglect to maintain the same during the period of thirty days after he has been notified so to do by the railroad corporation, such corporation shall thereafter build and maintain such fence, and may recover of the person neglecting to build and maintain it the expense thereof. And when such railroad shall cross timbered or forest lands, the company shall construct and maintain suitable and sufficient crossings, whenever and wherever reasonably necessary to enable the respective owners of said lands, to transport logs, timber and lumber for manufacture or sale, or for banking on any stream, to be floated or driven down the same. In case of any neglect or dispute the supreme court may by mandamus or other appropriate proceedings, compel the same, and also fix the point or location of any such crossing. (*Thus amended by chap. 367, Laws 1891, and by chap. 676, Laws 1892.*)

SIGN-BOARDS AND FLAGMEN AT CROSSINGS.

§ 33. Every railroad corporation shall cause boards to be placed, well supported and constantly maintained, across each traveled public road or street, where the same is crossed by its road at grade. They shall be elevated so as not to obstruct travel, and to be easily seen by travelers; and on each side shall be painted in capital letters, each at least nine inches in length and of suitable width, the words: "Railroad crossing; look out for the cars;" but such boards need not be put up in cities and villages, unless required by the officers having charge of the streets. At any point where a railroad crosses a street, highway, turnpike, plank-road, or traveled way at grade, or where a steam railroad crosses a horse railroad at grade, and the corporation owning or operating such railroad, refuses, upon request of the local authorities, to station a flagman or erect gates, to be opened and closed when an engine or train passes, the supreme court or the county court, may, upon the application of the local authorities and upon ten days' notice to the corporation, order that

a flagman be stationed at such point, or that gates shall be erected thereat, and that a person be stationed to open and close them when an engine or train passes, or may make such other order respecting the same as it deems proper. Whenever the crossing by a railroad at grade of the streets, highways, turnpikes, plank-roads, or traveled ways of any village or city, having a population by the last state or federal enumeration of less than fifty thousand, shall be protected by gates with persons to open and close the same, when an engine or train passes, the local authorities of the city or village shall not impose any limitation, less than forty miles an hour, on the rate of speed at which such engine or train shall be run, or enforce any existing limitation upon such rate of speed, less than forty miles an hour. (*Thus amended by chap. 676, Laws 1892.*)

NOTICE OF STARTING TRAINS; NO PREFERENCES.

§ 34. Every railroad corporation shall start and run its cars for the transportation of passengers and property at regular times, to be fixed by public notice, and shall furnish sufficient accommodations for the transportation of all passengers and property which shall be offered for transportation at the place of starting, within a reasonable time previously thereto, and at the junctions of other railroads, and at the usual stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to, such places on the due payment of the fare or freight legally authorized therefor. No station established by any railroad corporation for the reception or delivery of passengers or property, or both, shall be discontinued without the consent of the board of railroad commissioners first had and obtained. No preference for the transaction of the business of a common carrier upon its cars, or in its depots or buildings, or upon its grounds, shall be granted by any railroad corporation to any one of two or more persons, associations or corporations competing in the same business, or in the business of transporting property for themselves or others. Any such station in an incorporated village shall have the same name as the village; if any road shall have more than one such station in any such village, the station nearest the geographical center thereof shall have such name. (*Thus amended by chap. 676, Laws 1892.*)

ACCOMMODATION OF CONNECTING ROADS.

§ 35. Every railroad corporation whose road, at or near the same place, connects with or is intersected by two or more railroads competing for its business, shall fairly and impartially afford to each of

such connecting or intersecting roads equal terms of accommodation, privileges and facilities in the transportation of cars, passengers, baggage and freight over and upon its roads, and over and upon their roads, and equal facilities in the interchange and use of passenger, baggage, freight and other cars required to accommodate the business of each road, and in furnishing passage tickets to passengers who may desire to make a continuous trip over any part of its roads and either of such connecting roads. The board of railroad commissioners may, upon application of the corporation owning or operating either of the connecting or intersecting roads, and upon fourteen days' notice to the corporation owning or operating the other road, prescribe such regulations as will secure, in their judgment, the enjoyment of equal privileges, accommodations and facilities to such connecting or intersecting roads as may be required to accommodate the business of each road, and the terms and conditions upon which the same shall be afforded to each road. The decision of the commissioners shall be binding on the parties for two years, and the supreme court shall have power to compel the performance thereof by attachment, mandamus, or otherwise.

LOCOMOTIVES MUST STOP AT GRADE CROSSINGS.

§ 36. All trains and locomotives on railroads crossing each other at grade shall come to a full stop before crossing, not less than two hundred or more than eight hundred feet from the crossing, and shall then cross only when the way is clear and upon a signal from a watchman stationed at the crossing. If the corporations can not agree as to the expense of the watchman, it shall be determined by the supreme court, upon motion thereto by either of them. If the corporations disagree as to the precedence of trains, the board of railroad commissioners may, after hearing, upon the application of either corporation, prescribe rules in relation thereto. The full stop and crossing on signal may be discontinued if the board of railroad commissioners shall decide it to be impracticable, or if, with the approval of the commissioners, an interlocking switch and signal apparatus is adopted and put in operation at such a crossing. The full stop and crossing on signal shall not be required in depot yards, or the approaches thereto, if the crossing roads are under lease or subject to the same management or control in the use of tracks. An engineer, violating the foregoing provisions of this section, or any such rule of the railroad commissioners, shall be liable to a penalty of one hundred dollars; and any corporation or person operating the railroad, violating any of such provisions or rules shall be liable

to a penalty of five hundred dollars. No railroad corporation, or any officer, agent or employe thereof, shall stop its cars, horses, or locomotives upon a grade crossing of a railroad of another corporation, for the purpose of receiving or delivering passengers or freight, or other purpose, and any person or corporation violating this provision, shall be liable to a penalty of two hundred and fifty dollars.

See, also, chap. 239, Laws 1893, *post*.

RATES OF FARE.

§ 37. Every railway corporation may fix and collect the following rates of fare as compensation to be paid for transporting any passenger and his baggage, not exceeding one hundred and fifty pounds in weight, for each mile or fraction of a mile:

1. Where the motive power is rope or cable, propelled by stationary power, five cents, with right to a minimum fare of ten cents; but if the railroad is less than two miles in length, and overcomes an elevation of five hundred feet or more to the mile, five cents for each one hundred feet of elevation so overcome, and the same rates of fare if the motive power is locomotives, furnished with cogs working into cogs on the railway, and the length of road does not exceed four miles.

2. If a road, not incorporated prior to May 15, 1879, and not located in the counties of New York or Kings, or within the limits of any incorporated city, and not more than twenty-five miles in length, five cents; if over twenty-five and not more than forty miles, four cents; and if over forty miles, three cents. Where by the laying down of a third rail upon a railroad of the ordinary gauge, a narrow-gauge track is created and used for the transportation of passengers, and the length of road does not exceed six miles, including any connecting road of the same gauge, such railroad, for the purpose of fare, shall be deemed a narrow-gauge road.

3. If its railroad overcomes an elevation of two hundred feet to the mile, for at least two consecutive miles, and does not exceed twenty miles in length, ten cents; if it overcomes an elevation exceeding three hundred feet to the mile, within a distance of two miles, five cents for each one hundred feet of elevation; and where it overcomes an elevation of more than one thousand feet, within a distance of two miles, seven cents for each one hundred feet of elevation in a mile.

4. If the line of its road does not exceed fifteen miles in length, and does not enter or traverse the limits of any incorporated city,

and the distance traveled thereon by the passenger does not exceed one mile, five cents.

5. In all other cases, three cents for every such mile or fraction thereof, with a right to a minimum single fare of not less than five cents.

This chapter shall not be construed to allow any rate of fare for way passengers greater than two cents per mile to be charged or taken over the track or tracks of the railroad known as the New York Central railroad company, and the rate of fare for way passengers over the track or tracks of such company shall continue to be two cents per mile and no more, wherever it is restricted to that rate of fare, nor shall any consolidated railroad corporation charge a higher rate of fare per passenger per mile, upon any part or portion of the consolidated line than was allowed by law to be charged by each existing corporation thereon previously to such consolidation. (*Thus amended by chap. 676, Laws 1892.*)

LEGISLATURE MAY ALTER OR REDUCE FARE.

§ 38. The legislature may, when any such railroad shall be open for use, from time to time, alter or reduce the rate of freight, fare or other profits upon such road; but the same shall not, without the consent of the corporation, be so reduced as to produce with such profits less than ten per centum per annum on the capital actually expended; nor unless on an examination of the amounts received and expended, to be made by the board of railroad commissioners, they shall ascertain that the net income derived by the corporation from all sources, for the year then last past, shall have exceeded an annual income of ten per cent. upon the capital of the corporation actually expended.

PENALTY FOR EXCESSIVE FARE.

§ 39. Any railroad corporation, which shall ask or receive more than the lawful rate of fare, unless such overcharge was made through inadvertence or mistake, not amounting to gross negligence, shall forfeit fifty dollars, to be recovered with the excess so received by the party paying the same; but no action can be maintained therefor, unless commenced within one year after the cause of action accrued.

PASSENGER REFUSING TO PAY FARE MAY BE EJECTED.

§ 40. If any passenger shall refuse to pay his fare the conductor of the train, and the servants of the corporation, may put him and his

baggage out of the cars, using no unnecessary force, on stopping the train, at any usual stopping place, or near any dwelling-house, as the conductor may elect.

SLEEPING AND PARLOR CARS.

§ 41. Any railroad corporation may contract with any person, association or corporation for the hauling by the special or regular trains of said railroad corporation, the parlor, drawing-room or sleeping car or cars of such person, association or corporation, in which extra accommodations shall be furnished, for which said person, association or corporation furnishing such parlor, drawing-room or sleeping car or cars, may charge for the carriage and transportation of persons and property therein a reasonable compensation for such extra accommodation, in addition to the fare and charges now allowed by law for the carriage and transportation of passengers and property in the ordinary cars of said railroad corporation. But said railroad corporation so contracting shall be liable in the same way and to the same extent as if the said car or cars were owned by it, and shall furnish sufficient ordinary cars for the reasonable accommodation of the traveling public. (*Thus amended by chap. 676, Laws 1892.*)

PERSONS EMPLOYED AS DRIVERS, CONDUCTORS, MOTORMEN OR GRIPMEN.

§ 42. Any railroad corporation may employ any inhabitant of the state, of the age of twenty-one years, not addicted to the use of intoxicating liquors, as a car driver, conductor, motorman or gripman, or in any other capacity, if fit and competent therefor. All applicants for positions as motormen or gripmen on any street surface railroad in this state shall be subjected to a thorough examination by the officers of the corporation as to their habits, physical ability and intelligence. If this examination is satisfactory, the applicant shall be placed in the shop or power house where he can be made familiar with the power and machinery he is about to control. He shall then be placed on a car with an instructor, and when the latter is satisfied as to the applicant's capability for the position of motorman or gripman, he shall so certify to the officers of the company, and, if appointed, the applicant shall first serve on the lines of least travel. Any violation of the provisions of this section shall be a misdemeanor. (*Thus amended by chap. 513, Laws 1895.*)

CONDUCTORS AND EMPLOYES MUST WEAR BADGES.

§ 43. Every conductor and employe of a railroad corporation employed in a passenger train, or at stations for passengers, shall

wear upon his hat or cap a badge, which shall indicate his office or employment, and the initial letters of the corporation employing him. No conductor or collector without such badge shall demand or receive from any passenger any fare or ticket or exercise any of the powers of his employment. No officer or employe without such badge shall meddle or interfere with any passenger, his baggage or property. (*Thus amended by chap. 676, Laws 1892.*)

CHECKS FOR BAGGAGE.

§ 44. A check, made of some proper metallic substance of convenient size and form, plainly stamped with numbers, and furnished with a convenient strap or other appendage for attaching to baggage, shall be affixed to every piece or parcel of baggage when taken for transportation for a passenger by the agent or employe of such corporation, if there is a handle, loop or fixture therefor upon the piece or parcel of baggage, and a duplicate thereof given to the passenger or person delivering the same to him. If such check be refused on demand the corporation shall pay to the passenger the sum of ten dollars, and no fare shall be collected or received from him; and if he shall have paid his fare it shall be refunded to him by the conductor in charge of the train. Such baggage shall be delivered, without unnecessary delay, to the passenger or any person acting in his behalf at the place to which it was to be transported, where the cars usually stop, or at any other regular intermediate stopping place, upon notice to the baggage-master in charge of baggage on the train, of not less than thirty minutes, upon presentation of such duplicate check to the officer or agent of the railroad corporation, or of any corporation, over any portion of whose road it was transported. (*Thus amended by chap. 676, Laws 1892.*)

PENALTIES FOR INJURIES TO BAGGAGE.

§ 45. Any persons, whose duty it is for or on behalf of the common carrier to handle, remove, or care for the baggage of passengers, who shall recklessly or willfully injure or destroy any trunk, valise, box, bag, package or parcel, while loading, unloading, transporting, delivering or storing the same, or any railroad corporation, which shall knowingly keep in its employment any such willful or reckless person, or which shall permit any injury or destruction of such property, through failure to provide sufficient help and facilities for the handling thereof, shall pay to the party injured thereby the sum of fifty dollars, in addition to such damages,

UNCLAIMED FREIGHT AND BAGGAGE.

§ 46. Every railroad or other transportation corporation, doing business in this state, which shall have unclaimed freight or baggage, not perishable, in its possession for the period of one year, may sell the same at public auction, after giving notice to that effect, once a week for not less than four weeks in a newspaper published in the county where the freight or baggage remains unclaimed, and in a newspaper published in the county where the sale is to be had, and in a newspaper published in the city of New York, which notice shall contain, as near as practicable, a description of such freight or baggage, the place and time when left, and the name of the owner, if known. A copy of such notice shall be posted in a conspicuous place at each depot or station, where any portion of such freight or baggage remains unclaimed, at least four weeks before such sale, and a copy thereof shall be served on the comptroller of the state, at least two weeks before such sale. If the name and residence of the owner of any such property is known to, or can be ascertained by, the corporation, it shall forthwith serve a copy of such notice upon such owner by mail. Perishable freight or baggage may be sold without notice, as soon as it can be, upon the best terms that can be obtained. All moneys arising from the sale of such freight or baggage, after deducting therefrom charges and expenses for transportation, storage, advertising, commissions for selling the property, and any amount previously paid for its loss or non-delivery, shall be deposited, by the corporation making such sale, with a report thereof, and proofs of advertisement, if any, and if none proofs that the property was perishable, with the comptroller for the benefit of the general fund of the state, and shall be held by him in trust for reclamation by the persons entitled to receive the same. (*Thus amended by chap.* 676, *Laws* 1892.

TICKETS AND CHECKS FOR CONNECTING STEAMBOATS.

§ 47. The proprietors of any line of steamboats, terminating or stopping for passengers at any place where a railroad corporation has a depot or station, may furnish tickets and baggage checks to such corporation for the use of passengers, traveling over its road, who desire to connect with such line of boats at any such place, and the railroad corporation shall sell such tickets and deliver a duplicate of one of such checks to any such passenger applying therefor, and shall account for and pay over to the proprietors of such line of boats all moneys received by it for the sale of such tickets; and any such railroad corporation may furnish tickets and checks for bag-

gage to the proprietors of any such line of steamboats for the use of passengers traveling over any part of such line of boats, who desire to connect with the railroad of any such corporation at any such place, and such proprietors shall sell such tickets and deliver a duplicate of one of such checks to any such passenger applying therefor, and shall account for and pay over to such corporation all moneys received by them for the sale of such tickets. No greater rate of fare shall be charged by any railroad corporation to any such passenger for the distance traveled over its road than is charged to travelers for the same distance whose trip ends at the place where connection is made with any such line of boats, and no greater rate of fare shall be charged by the proprietors of any such steamboat line to any such passenger for the distance traveled over its line, than is charged to travelers for the same distance whose trip ends at the place where connection is made with any such railroad. Any additional cost of transfer of a passenger or his baggage from railroad depot or station to steamboat landing, or from steamboat landing to depot or station, shall be borne by the passenger or the proprietors of the steamboat line or the railroad corporation at whose instance or for whose benefit such transfer is made. Every railroad corporation and the proprietors of any line of steamboats, their agents or servants, who shall neglect or refuse to sell tickets or furnish a check to any passenger applying for the same, when the same shall have been furnished to them, shall pay to such passenger the sum of ten dollars and no fare or toll shall be collected from him for riding over such road or upon such boats, as the case may be; and in addition thereto any railroad corporation so neglecting or refusing, shall pay the proprietors of such line of boats two hundred and fifty dollars for each day it shall so neglect or refuse; and the proprietors of any such line of boats so neglecting or refusing, shall pay to such railroad corporations a like sum for each day they shall so neglect or refuse.

Every such railroad corporation shall also receive any freight which shall be delivered at any station on the line of its road, marked to go by way of boat or any particular line of boats from any station on its road at which such boat or line of boats terminates or stops for freight, and shall transport such freight with all convenient speed to such station, and on its arrival there cause the proprietors of the steamboat line by which it is directed to be sent, or their agent, to be notified of such arrival, and shall deliver such freight to such proprietors or their agent with the bill of charges thereon due such railroad corporation, for the payment of which charges the proprietor or

proprietors of such steamboat line shall be responsible, and shall account for and pay the same to such railroad corporation on demand. The railroad corporation shall not charge for the transportation of such freight over its road any greater sum pro rata than it charges for carrying the same kind of freight the same distance over its road, if it was to be transported by such corporation by rail to its final destination or to the terminus of the road of such corporation in case it terminates before such final destination is reached. Any freight delivered by the proprietors of any steamboat or steamboat line, or their authorized agent, at any station, at a place where such steamboat or steamboats have a landing, to any such railroad corporation for transportation over its road or any part thereof, shall be transported by such corporation to its place of destination for the same price pro rata which would be charged for the same kind of freight the same distance over its road, if the same had been taken on at the point of first shipment by boat, or at the terminus of the road of such corporation, in case it does not extend to the point of first shipment.

RIGHTS AND LIABILITIES AS COMMON CARRIERS.

§ 48. Every railroad corporation doing business in this state shall be a common carrier. Any one of two or more corporations owning or operating connecting roads, within this state, or partly within and partly without the state, shall be liable as a common carrier, for the transportation of passengers or delivery of freight received by it to be transported by it to any place on the line of a connecting road; and if it shall become liable to pay any sum by reason of neglect or misconduct of any other corporation it may collect the same of the corporation by reason of whose neglect or misconduct it became liable. (*Thus amended by chap.* 676, *Laws* 1892.)

SWITCHES; WARNING SIGNALS; GUARD-POSTS; AUTOMATIC COUPLERS; AUTOMATIC OR OTHER SAFETY BRAKE; TOOLS IN PASSENGER CAR; WATER.

§ 49. It shall be the duty of every railroad corporation operating its road by steam :

1. To lay, in the construction of new and in the renewal of existing switches, upon freight or passenger main line tracks, switches on the principle of either the so-called Tyler, Wharton, Lorenze, or split-point switch, or some other kind of safety switch, which shall prevent the derailment of a train, when such switch is misplaced or a switch interlocked with distant signals.

2. To erect and thereafter maintain such suitable warning signals at every road, bridge, or structure which crosses the railroad above the tracks, where such warning signals may be necessary, for the protection of employes on top of cars from injury.

3. To place guard-posts in the prolongation of the line of bridge trusses so that in case of derailment, the posts, and not the bridge trusses, shall receive the blow of the derailed locomotive or car.

4. To use upon every new freight car, built or purchased for use, couplers which can be coupled and uncoupled automatically, without the necessity of having a person guide the link, lift the pin by hand, or go between the ends of the cars.

5. To attach to every car used for passenger transportation an automatic air-brake or other form of safety-power brake, applied from the locomotive, excepting cars attached to freight trains, the schedule rate of speed of which does not exceed twenty miles an hour.

6. To provide each closed car in use in every passenger train owned or regularly used upon a railroad, with one set of tools, consisting of an axe, sledge-hammer, crowbar, and handsaw, to be properly placed so as to be easily removed.

7. To provide, in each passenger car, where the line of road shall exceed forty continuous miles in length, a suitable receptacle for water, with a cup or drinking utensil attached upon or near such receptacle, and to keep such receptacle, while the car is in use, constantly supplied with cool water.

Every corporation, person or persons, operating such railroad, and violating any of the provisions of this section, except subdivision seven shall be liable to a penalty of one hundred dollars for each offense and the further penalty of ten dollars for each day that it shall omit or neglect to comply with any of such provisions. For every violation of the provisions of the seventh subdivision of this section every such corporation shall be liable to a penalty of twenty-five dollars for each offense.

See, also, chaps. 543 and 544, Laws 1893, *post*.

RAILROAD COMMISSIONERS MAY APPROVE OTHER SAFEGUARDS.

§ 50. The board of railroad commissioners may, on the application of any railroad corporation, authorize it to use any other safeguard or device approved by the board, in place of any safeguard or device required by this article which shall thereafter be used in lieu thereof, and the same penalties for neglect or refusal to use the same shall be

incurred and imposed as for a failure to use the safeguard or device hereinbefore required, in lieu of which the same is to be used.

USE OF STOVES OR FURNACES PROHIBITED.

§ 51. It shall not be lawful for any railroad corporation, operating a steam railroad in this state, of the length of fifty miles or more, excepting foreign railroad corporations, incorporated without the jurisdiction of the United States, running cars upon tracks in this state for a distance of less than thirty miles, to heat its passenger cars, on other than mixed trains, excepting dining-room cars, by any stove or furnace kept inside the car, or suspended therefrom, unless in case of accident or other emergency, when it may temporarily use such stove or furnace with necessary fuel, and in cars which have been equipped with apparatus to heat by steam, hot water or hot air from the locomotive, or from a special car, the present stove may be retained to be used only when the car is standing still, and no stove or furnace shall be used in any dining-room car, except for cooking purposes, and of a pattern and kind to be approved by the railroad commissioners. Any person or corporation, violating any of the provisions of this section, shall be liable to a penalty of one thousand dollars, and to the further penalty of one hundred dollars for each and every day during which such violation shall continue.

CANADA THISTLES TO BE CUT.

§ 52. Every railroad corporation doing business within this state, shall cause all Canada thistles, white and yellow daisies and other noxious weeds growing on any lands owned or occupied by it, to be cut down twice in each and every year, once between the fifteenth day of June and the twenty-fifth day of June, and once between the fifteenth day of August and the twenty-fifth day of August. If any such corporation shall neglect to cause the same to be so cut down, any person may cut the same, between the twenty-fifth day of June and the fifth day of July inclusive, and between the twenty-fifth day of August and the fifth day of September inclusive in each year, at the expense of the corporation on whose lands the same shall be so cut, at the rate of three dollars per day for the time occupied in cutting.

RIDING ON PLATFORM; WALKING ALONG TRACK.

§ 53. No railroad corporation shall be liable for any injury to any passenger while on the platform of a car, or in any baggage, wood or freight car, in violation of the printed regulations of the corpora-

tion, posted up at the time in a conspicuous place inside of the passenger cars, then in the train, if there shall be at the time sufficient room for the proper accommodation of the passenger inside such passenger cars. No person other than those connected with or employed upon the railroad shall walk upon or along its track or tracks, except where the same shall be laid across or along streets or highways, in which case he shall not walk upon the track unless necessary to cross the same. Any person riding, leading or driving any horse or other animal upon any railroad, or within the fences and guards thereof, other than at a farm or street or forest crossing, without the consent of the corporation, shall forfeit to the people of the state the sum of ten dollars, and pay all damages sustained thereby to the party aggrieved. (*Thus amended by chap.* 676, *Laws* 1892.)

CORPORATIONS MAY ESTABLISH FERRIES.

§ 54. Any steam railroad corporation, incorporated under the laws of this state, with a terminus in the harbor of New York, may purchase or lease boats propelled by steam or otherwise, and operate the same as a ferry or otherwise, over the waters of the harbor of New York, but this section shall not be construed to affect the rights of the cities of New York and Brooklyn. (*As amended by chap.* 676, *Laws* 1892.)

CERTAIN RAILROADS MAY CEASE OPERATION IN WINTER.

§ 55. The directors of any railroad corporation operating a railroad, constructed and used principally for transporting lumber or ores, during the summer months, or for summer travel, may, by a resolution duly passed at a meeting thereof, apply to the board of railroad commissioners for permission to cease the operation of their road during the winter season for a period not exceeding seven months in any one year, specifying the date of such suspension, and the date of the reopening thereof; and such board may, in their discretion, make an order granting the application wholly or in part, and thereupon such railroad corporation shall be relieved of the duty of operating its road during the period specified in the order. A copy of such order shall be posted in all the depots and at the termini of such railroad, and published in every newspaper in each town in any part of which such road shall be constructed at least four weeks prior to the date of such suspension.

MAILS.

§ 56. Any railroad corporation shall, when applied to by the postmaster-general, convey the mails of the United States on its road,

and in case such corporation and the postmaster-general shall not agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and condition of carrying the same, the board of railroad commissioners shall fix the prices, terms and conditions therefor, after giving the corporation a reasonable opportunity to be heard. Such price shall not be less for carrying such mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. If the postmaster-general shall require the mail to be carried at other hours, or at higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail, and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as herein provided.

Every railroad corporation refusing or neglecting to comply with any provision of this section shall forfeit to the people of the state one hundred dollars for every day such neglect or refusal continues. (*Thus amended by chap.* 676, *Laws* 1892.)

CORPORATIONS MUST MAKE ANNUAL REPORT.

§ 57. Every person or corporation owning, leasing, operating or in possession of a railroad, wholly or partly, in this state, shall make an annual report to the board of railroad commissioners of its operations for the year ending with June thirtieth, and of its condition on that day, which shall be verified by the oaths of the president, or treasurer, and the general manager, or acting superintendent, and shall be filed in the office of such board on or before September first in each year. Every such person or corporation shall make a quarterly and further reports to such board in the form and within the time prescribed by it. Such board may in its discretion change the date of the annual report and of filing the same, but the length of time between the date of the annual report and the filing of the same shall not be less than herein prescribed. Any person or railroad corporation which shall neglect to make any such report, or which shall fail to correct any such report within ten days after notice by the board of railroad commissioners, shall be liable to a penalty of two hundred and fifty dollars and an additional penalty of twenty-five dollars for each day after September first on which it shall neglect to file the same, to be sued for in the name of the people of the state of New York, for their use.

The board of railroad commissioners may extend the time herein limited for cause shown. (*Thus amended by chap.* 676, *Laws* 1892.)

WHEN CONDUCTORS AND BRAKEMEN MAY BE POLICEMEN.

§ 58. The governor may appoint any conductor or brakeman on any train conveying passengers on any steam railroad in this state, a policeman, with all the powers of a policeman in cities and villages, for the preservation of order and of the public peace, and the arrest of all persons committing offenses upon the land or property of the corporation owning or operating such railroad; and he may also appoint, on the application of any such corporation or of any steamboat company, such additional policemen, designated by it, as he may deem proper, at any station, who shall have the same powers, but not more than one at any one station. Every such policeman shall, within fifteen days after receiving his commission, and before entering upon the duties of his office, take and subscribe the constitutional oath of office, and file it with his commission in the office of the secretary of state, who shall thereupon transmit to the county clerk of each county in which said policeman is authorized to act a certificate, under his hand and official seal, setting forth the appointment and the filing of the commission and oath, which certificate shall be filed by the county clerk. Every such policeman shall, when on duty, wear a metallic shield with the words "Railway police," or "Steamboat police," as the case may be, and the name of the corporation for which appointed inscribed thereon, which shall always be worn in plain view, except when employed as a detective. The compensation of every such policeman shall be such as may be agreed upon between him and the corporation for which he is appointed and shall be paid by the corporation. When any corporation shall no longer require the services of any such policeman, they may file notice to that effect in the several offices in which notice of his appointment was originally filed, and thereupon such appointment shall cease and be at an end.

REQUISITES TO EXERCISE OF POWERS OF FUTURE RAILROAD CORPORATIONS.

§ 59. No railroad corporation hereafter formed under the laws of this state shall exercise the powers conferred by law upon such corporations or begin the construction of its road until the directors shall cause a copy of the articles of association to be published in one or more newspapers in each county in which the road is proposed to be located, at least once a week for three successive weeks, and shall file satisfactory proof thereof with the board of railroad commissioners; nor until the board of railroad commissioners shall certify that the foregoing conditions have been complied with, and

also that public convenience and a necessity require the construction of said railroad as proposed in said articles of association. The foregoing certificate shall be applied for within six months after the completion of the three weeks' publication hereinbefore provided for. If certificate is refused no further proceedings shall be had before said board, but the application may be renewed after one year from the date of such refusal. Prior to granting or refusing said certificate the board shall have a right to permit errors, omissions or defects to be supplied and corrected. After a refusal to grant such certificate the board shall certify a copy of all maps and papers on file in its office and of the findings of the board when so requested by the directors aforesaid. Such directors may thereupon present the same to a general term of the supreme court of the department within which said road is proposed in whole or in part to be constructed, and said general term shall have power, in its discretion, to order said board, for reasons stated, to issue said certificate, and it shall be issued accordingly. Such certificate shall be filed in the office of the secretary of state and a copy thereof, certified to be a copy by the secretary of state, or his deputy, shall be evidence of the fact therein stated. Nothing in this section shall prevent any such railroad corporation from causing such examinations and surveys for its proposed railroad to be made as may be necessary to the selection of the most advantageous route; and for such purpose by its officers or agents and servants, to enter upon the lands or water of any person, but subject to the responsibility for all damages which shall be done thereto. (*Thus amended by chap.* 545, *Laws of* 1895.)

ARTICLE III.

CONSOLIDATION, LEASE, SALE AND REORGANIZATION.

SECTION 70. Consolidation of corporations owning continuous lines.
71. Conditions.
1. Joint agreement; amount of capital stock.
2. Agreement to be submitted to meeting of stockholders.
72. New corporation.
73. Creditors' right not to be impaired.
74. Assessment of property of new corporation.
75. Stock of municipal corporation, how represented.
76. Foreclosure of mortgages made by consolidated railroads partly in the state.
77. Powers of corporation of other states.
78. Lease of road.
79. Lessees of railroad may acquire stock therein.

SECTION 80. Consolidation and lease of parallel lines prohibited.
81. Mortgagees may purchase at foreclosure sale.
82. Certificates of stock may be issued after foreclosure in certain cases.
83. Liabilities of reorganized railroad corporations.
84. Consolidation of companies.

CONSOLIDATION OF CORPORATIONS OWNING CONTINUOUS LINES.

§ 70. Any railroad or other corporation, organized under the laws of this state, or of this state and any other state, and owning or operating a railroad, bridge or tunnel, either wholly within or partly within and partly without the state, or whose lines or routes of roads have been located but not constructed, may merge and consolidate its capital stock, franchises and property with the capital stock, franchises and property of any other railroad, tunnel or bridge corporation or corporations, organized under the laws of this state, or of this state and any other state, or under the laws of any other state or states, whenever the two or more railroads, of the companies or corporations so to be consolidated, tunnels, bridges or branches or any part thereof, or the line or routes of their road, if not constructed, shall or may form a continuous or connected line of railroad with each other or by means of any intervening railroad bridge, tunnel or ferry, and any such consolidated corporation may thereupon construct or finish the construction of such continuous line of railroad, if not previously constructed, and operate the same, subject to all provisions of laws applicable to such railroad corporations. Where the road to be operated is in whole or in part a tunnel or subsurface road, authorized by section 16 of this chapter, its consolidation with another road or roads under the provisions of this section shall not prevent any connecting railroad from having equal rights of transit for its passengers and freight through or over the tunnel or bridge of any such road, upon the same equitable terms, or shall such consolidation be made where such tunnel or subsurface road exceeds five miles in length. (*Thus amended by chap.* 676, *Laws* 1892.)

CONDITIONS.

§ 71. Such consolidation shall be made in the following manner:

JOINT AGREEMENT; AMOUNT OF CAPITAL STOCK.

1. The directors of the corporations proposing to consolidate may enter into a joint agreement, under the corporate seal of each cor-

poration, for the consolidation of such corporations, and prescribing the terms and conditions thereof, the mode of carrying the same into effect, the name of the new corporation, the number and names of the directors and other officers thereof, and who shall be the first directors and officers and their places of residence, the number of shares of the capital stock, the amount or par value of each share, and the manner of converting the capital stock of each corporation into that of the new corporation, and how and when the directors and officers shall be chosen, with such other details as they shall deem necessary to perfect such new organization and the consolidation of such corporations. But in no case shall the capital stock of the corporation formed by such consolidation exceed the sum of the capital stock of the corporations so consolidated, at the par value thereof. Nor shall any bonds or other evidences of debt be issued as a consideration for, or in connection with, such consolidation.

AGREEMENT TO BE SUBMITTED TO MEETING OF STOCKHOLDERS.

2. If stockholders owning two-thirds of all the stock of each of such corporations shall, by a consent in writing, acknowledged as are deeds entitled to be recorded and indorsed upon said lease or agreement, signify their assent thereto, it shall be deemed and taken as the adoption of such agreement by and on behalf of such corporation, and the original or a certified copy thereof shall be filed as hereinafter provided. If such agreement shall not be consented to in writing, by holders of two-thirds of the stock of either of such corporations as hereinbefore provided, such agreement shall be submitted to the stockholders of each of such corporations at a meeting thereof called separately for the purpose of taking the same into consideration. Due notice of the time and place of holding such meeting, and the object thereof, shall be given by each corporation to its stockholders by written or printed notices addressed to each of the persons in whose names the capital stock of such corporation stands on the books thereof, and delivered to such persons respectively, or sent to them by mail, when their post-office address is known to the corporation, at least thirty days before the time of holding such meeting, and also by a general notice published at least once a week for four weeks successively in some newspaper printed in the city, town or county where such corporation has its principal office or place of business. At such meeting of stockholders such agreement shall be considered, and a vote by ballot taken for the adoption or rejection of the same, and if the

votes of the stockholders owning at least two-thirds of the stock of each corporation present and voting in person or by proxy shall be for the adoption of such agreement, then that fact shall be certified thereon by the secretaries of the respective corporations, under the seal thereof, and the agreement so adopted, or a certified copy thereof shall be filed in the office of the secretary of state, and in the office of the clerk of the county where the new corporation is to have its principal place of business, and shall from thence be deemed and taken to be the agreement and act of consolidation of such corporations, and thereafter such corporations, parties thereto, shall be one corporation by the name provided in such agreement, but such act of consolidation shall not release such new corporation from any of the restrictions, liabilities or duties of the several corporations so consolidated. (*Thus amended by chap.* 676, *Laws* 1892.)

NEW CORPORATIONS TO BE VESTED WITH ALL PROPERTY AND FRANCHISES OF THE OLD COMPANIES; MAY ISSUE BONDS TO TAKE UP THOSE OF THE ORIGINAL COMPANIES.

§ 72. Upon the consummation of such act of consolidation all the rights, privileges, exemptions and franchises of each of the corporations, parties to the same, and all the property, real, personal and mixed, and all the debts due on whatever account to either of them, as well as all stock subscriptions and other things in action belonging to either of them shall be taken and deemed to be transferred to and vested in such new corporation, without further act or deed; and all claims, demands, property, rights of way, and every other interest shall be as effectually the property of the new corporation as they were of the former corporations, parties to such agreement and act; and the title to all real estate, taken by deed or otherwise, under the laws of this state, vested in either of such corporations, parties to such agreement and act, shall not be deemed to revert or be in any way impaired by reason of this act, or anything done by virtue thereof, but shall be vested in the new corporation by virtue of such act of consolidation. And it shall be lawful for any railroad company or corporation, now or hereafter formed by the consolidation of one or more railroad companies or corporations organized under the laws of this state, or under the laws of this state and other states, with one or more railroad companies or corporations organized under the laws of any other state, or of the laws of this state and other states to issue its bonds for the purpose of paying or retiring any bonds theretofore issued by either of said companies or corporations so consolidated, or for any purpose and to the amount authorized by

the laws of the state under which either of said companies or corporations so consolidated was organized, and secure the same by a mortgage upon its real or personal property, franchises, rights and privileges, whether within or without this state, and subject to the remedies for the enforcement of the same under the laws of either of said states. Nothing in this act contained shall authorize the execution of any such mortgage without the consent of the stockholders as now required by the laws of this state, nor compel any bondholder to accept payment in whole or in part of any bond or bonds held by him or to surrender the same before they shall become due. (*Thus amended by chap.* 362, *Laws* 1891.)

CREDITORS' RIGHTS NOT TO BE IMPAIRED.

§ 73. The rights of all creditors of, and all liens upon the property of, either of such corporations, parties to such agreement and act, shall be preserved unimpaired, and the respective corporations shall be deemed to continue in existence to preserve the same, and all debts and liabilities incurred by either of such corporations shall thenceforth attach to such new corporation, and be enforced against it and its property to the same extent as if incurred or contracted by it. No actions or proceedings in which either of such corporations is a party shall abate or be discontinued by such agreement and act of consolidation, but may be conducted to final judgment in the names of such corporations, or such new corporation may be, by order of the court, on motion substituted as a party.

ASSESSMENT OF PROPERTY OF NEW CORPORATION.

§ 74. The real estate of such new corporations, situate within this state, shall be assessed and taxed in the several towns and cities where the same shall be situated in a like manner as the real estate of other railroad corporations is or may be taxed and assessed, and such proportion of the capital stock and personal property of such new corporation, shall in like manner be assessed and taxed in this state, as the number of miles of its railroad situate in this state bears to the number of miles of its railroad situate in the other state or states.

STOCKS OF MUNICIPAL CORPORATIONS, HOW REPRESENTED.

§ 75. At any meeting of the stockholders of any railroad corporation to consider any agreement or proposition to consolidate or lease, the commissioners or other officers of any municipal corporation holding or having charge of any of the capital stock of such railroad corporation shall represent such municipal corporation, and may act

and vote in person or by proxy on all matters relating to such consolidation or lease in the same manner as individual stockholders. (*Thus amended by chap.* 546, *Laws* 1893.)

FORECLOSURE OF MORTGAGES MADE BY CONSOLIDATED RAILROADS PARTLY IN THIS STATE.

§ 76. Whenever a railroad corporation whose line of road lies partly in this state and partly in another state or states, shall have been created by the consolidation of a railroad corporation of this state with a railroad corporation or corporations of another state or states, and shall have executed a mortgage upon its entire line of railroad, and a sale of the entire line of road under such mortgage shall have been or may hereafter be ordered, adjudged and decreed by a court of competent jurisdiction of the state or states in which the greater part of such line of railroad may be situated, upon the confirmation of such judgment or decree, and of the sale made thereunder, by the supreme court of this state in the judicial district in which some part of such line of road is situated; such sale shall operate to pass title to the purchaser of that part of the line of railroad lying in this state, together with its appurtenances and franchises, with the same force and effect as if the judgment or decree under which such sale is had, had been made by a court of competent jurisdiction of this state. Such judgment or decree and sale may be so confirmed in any action now pending, or that may hereafter be brought in the supreme court, for the foreclosure of such mortgage or in aid of an action for that purpose pending in such other state, if it shall appear that such confirmation is for the interest of the public and of the parties, due and lawful provision being made for and in respect of any liens upon that part of the line or road or other property sold situate in this state, and for such costs, expenses and charges as may appear to be just and lawful. If a receiver of the entire line of such railroad shall have been, or may hereafter be appointed by such court of competent jurisdiction of the state in which the greater part of the line of railroad is situated, such receiver may perform, within this state, the duties of his office, not inconsistent with the laws of this state, and may sue and be sued in the courts of this state.

POWERS OF CORPORATIONS OF OTHER STATES.

§ 77. A railroad corporation created under the laws of the state or states in which the greater part of the line of its railroad may be situated for the purpose of taking title to and operating the en-

tire line of railroad, so sold as provided in the preceding section, or sold under a judgment or decree of a court of this state, or a court of the United States sitting in this state for the foreclosure of a mortgage, with its franchises and appurtenances, the judgment, decree and sale having been duly confirmed and approved as in the preceding section provided or the sale having been confirmed by the court in this state making such decree, may hold, possess and operate that part of the line of such railroad lying in this state and shall have all the rights and franchises theretofore possessed by the corporation executing the mortgage under which such sale was made, and such as now are or may hereafter be conferred upon railroad corporations organized under the laws of this state, and shall be subject to the duties and liabilities to which such corporation was by the laws of this state subject, and to such further or other duties and liabilities as are now or may hereafter be imposed by law upon railroad corporations of this state. An exemplified copy of the law or laws and the certificate or certificates of incorporation under and by virtue of which such corporation is created and a certified copy of the judgment or decree under which said railroad was sold and a certified copy of the order or judgment of confirmation and approval required by the preceding section, or of the order, judgment or decree of the court in this state which decreed the sale confirming the same shall be filed in the office of the secretary of state for this state and in the office of the county clerk of the county where its principal business office in this state is located. (*Thus amended by chap.* 454, *Laws* 1895.)

LEASE OF ROAD.

§ 78. Any railroad corporation, or any corporation owning or operating any railroad or railroad route within this state, may contract with any other such corporation for the use of their respective roads or routes, or any part thereof, and thereafter use the same in such manner, and for such time as may be prescribed in such contract. Such contract may provide for the exchange or guaranty of the stock and bonds of either of such corporations by the other and shall be executed by the contracting corporations under the corporate seal of each corporation, and if such contract shall be a lease of any such road and for a longer period than one year, such contract shall not be binding or valid unless approved by the votes of stockholders owning at least two-thirds of the stock of each corporation which is represented and voted upon in person or by proxy at a meeting called separately for that purpose upon a notice stating

the time, place and object of the meeting, served at least thirty days previously upon each stockholder personally, or mailed to him at his post-office address, and also published at least once a week, for four weeks successively, in some newspaper printed in the city, town or county where such corporation has its principal office, and there shall be indorsed upon the contract the certificate of the secretaries of the respective corporations under the seals thereof, to the effect that the same has been approved by such votes of the stockholders, and the contract shall be executed in duplicate and filed in the offices where the certificates of incorporation of the contracting corporations are filed. The road of a corporation cannot be used under any such contract in a manner inconsistent with the provisions of law applicable to its use by the corporation owning the same at the time of the execution of the contract. Such contract shall be executed by the corporations, parties thereto, and proved and acknowledged in such manner as to entitle the same to be recorded in the office of the clerk or register of each county through or into which the road so to be used shall run. Nothing in this section shall apply to any lease in existence prior to May first, eighteen hundred and ninety-one. (*Thus amended by chap.* 433, *Laws* 1893.)

LESSEES OF RAILROAD MAY ACQUIRE STOCK THEREIN.

§ 79. Any railroad corporation created by the laws of this state, or its successors, being the lessee of the road or of any other railroad corporation, may take a surrender or transfer of the capital stock of the stockholders, or any of them in the corporation whose road is held under lease, and issue in exchange therefor the like additional amount of its own capital stock at par, or on such other terms and conditions as may be agreed upon between the two corporations; and whenever the greater part of the capital stock of any such corporation shall have been so surrendered or transferred, the directors of the corporation taking such surrender or transfer shall thereafter, on a resolution electing so to do, to be entered on their minutes, become ex-officio the directors of the corporation whose road is so held under lease, and shall manage and conduct the affairs thereof, as provided by law; and whenever the whole of such capital stock shall have been so surrendered or transferred, and a certificate thereof filed in the office of the secretary of state, under the common seal of the corporation to whom such surrender or transfer shall have been made, the estate, property, rights, privileges and franchises of the corporation whose stock shall have been so surrendered or transferred, shall thereupon vest in and be held and enjoyed by

the corporation, to whom such surrender or transfer shall have been made, as fully and entirely, and without change or diminution, as the same were before held and enjoyed, and be managed and controlled by the board of directors of the corporation, to whom such surrender or transfer of such stock shall have been made, and in the corporate name of such corporation. Where stock shall have been so surrendered or transferred, the existing liabilities of the corporation, and the rights of the creditors and of any stockholder not surrendering or transferring his stock, shall not be affected thereby.

CONSOLIDATION AND LEASE OF PARALLEL LINES PROHIBITED.

§ 80. No railroad corporation or corporations owning or operating railroads whose roads run on parallel or competing lines, except street surface railroad corporations, shall merge or consolidate, or enter into any contract for the use of their respective roads, or lease the same, the one to the other, unless the board of railroad commissioners of the state or a majority of such board shall consent thereto. (*Thus amended by chap.* 676, *Laws* 1892.)

MORTGAGEE MAY PURCHASE AT FORECLOSURE SALE.

§ 81. Any mortgagee of the property and franchise of any railroad corporation may become the purchaser of the same at any sale thereof under the mortgage, upon foreclosure by advertisement, or under a judgment, or decree, or otherwise, and hold and use the same, with all the rights and privileges belonging thereto or connected therewith for the period of six months, and convey the same to any railroad corporation.

CERTIFICATES OF STOCK MAY BE ISSUED AFTER FORECLOSURE IN CERTAIN CASES.

§ 82. If any person or corporation shall be entitled to certificates of stock subscribed to and paid for in any railroad corporation whose property and franchises have been sold under mortgage foreclosure, and such certificates have not been issued before foreclosure, the officers of the corporation shall, at any time within six months after the foreclosure sale issue and deliver to the person or corporation entitled thereto, upon demand, such certificates of stock, which shall have all the force and effect and confer upon the holder all the rights which he would have had if such certificates of stock had been issued at the time of the payment of the subscription thereto.

LIABILITIES OF REORGANIZED RAILROAD CORPORATIONS.

§ 83. A railroad corporation, reorganized under the provisions of law, relating to the formation of new or reorganized corporations upon the sale of their property or franchise, shall not be compelled or required to extend its road beyond the portion thereof constructed, at the time the new or reorganized corporation acquired title to such railroad property and franchise; provided the board of railroad commissioners of the state shall certify that in their opinion the public interests under all the circumstances do not require such extension. If such board shall so certify and shall file in their office such certificate, which certificate shall be irreversible by such board, such corporation shall not be deemed to have incurred any obligation so to extend its road and such certificate shall be a bar to any proceedings to compel it to make such extension or to annul its existence for failure so to do, and shall be final and conclusive in all courts and proceedings whatever. This section shall not authorize the abandonment of any portion of a railroad which has been constructed and operated, or apply to Kings county.

CONSOLIDATION OF COMPANIES.

§ 84. All the provisions contained in the several sections of this act shall extend, apply to and cover the consolidation, lease, sale or reorganization of any railroad or other corporation heretofore or hereafter organized, under the laws of this state, and any other state or country, to build, lease, buy, sell, maintain or operate any of the lines or routes of railroads, tunnels, bridges, ferries or branches or any part thereof mentioned in this article, and any similar lines or routes of railroad, tunnels, bridges, ferries or any part thereof, constructed or to be located and constructed in any foreign country. (*This section added by chap.* 921, *Laws of* 1895.)

ARTICLE IV.

STREET SURFACE RAILROADS.

SECTION 90. Street surface railroads; general provision.
91. Consent of property owners and local authorities.
92. Consent of local authorities; how procured.
93. Condition upon which consent shall be given; sale of franchise at public auction.
94. Proceedings if property owners do not consent.
95. Percentage of gross receipts to be paid in cities or villages; report of officers.

SECTION 96. Extension of route over rivers; terminus in other counties; when property owners withhold consent; supreme court may appoint commissioners.
97. Use of tracks of other roads.
98. Repair of streets; rate of speed; removal of ice and snow.
99. Within what time road to be built.
100. Motive power.
101. Rate of fare.
102. Construction of road in streets where other road is built.
103. Abandonment of part of route.
104. Contracting corporations to carry for one fare; penalty.
105. Effect of dissolution of charter as to consents.
106. Corporate rights saved in case of failure to complete road; right to operate branches; conditions; former consents ratified; limitations.
107. When sand may be used on tracks.
108. Road not to be constructed upon grounds occupied by public buildings or in public parks.
109. Center-bearing rails prohibited.
110. Right to cross bridge substituted for bridge crossed for five years.

STREET SURFACE RAILROADS; GENERAL PROVISIONS.

§ 90. The provisions of this article shall apply to every corporation which, under the provisions thereof, or of any other law, has constructed or shall construct or operate, or has been or shall be organized to construct or operate, a street surface railroad, or any extension or extensions, branch or branches thereof, for public use in the conveyance of persons and property for compensation, upon and along any street, avenue, road, highway, or private property, in any city, town or village, or in any two or more civil divisions of the state, and every such corporation must comply with the provisions of this article. Any street surface railroad corporation, at any time proposing to extend its road, or to construct branches thereof, may, from time to time, make and file in each of the offices in which its certificate of incorporation is filed, a statement of the names and description of the streets, roads, avenues, highways and private property in or upon which it is proposed to construct, maintain or operate such extensions or branches. Upon filing any such statement and upon complying with the conditions set forth in section ninety-one of the railroad law, every such corporation shall have the power and privilege to construct, extend, operate and maintain such road, extensions or branches, upon and along the streets, avenues, roads, highways and private property named and described in its certificate of incorporation or in such statement. Every such corporation, before constructing any part of its road upon or through any private property described in its articles of

association or certificate of incorporation or statement, and before instituting any proceeding for the condemnation of any real property, shall make a map and profile of the route adopted by it upon or through any private property, which map and profile shall be certified by the president and engineer of the company, or a majority of its directors, and shall be filed in the office of the clerk of the county in which the road is to be constructed, and all provisions of section six of the act hereby amended so far as applicable shall apply to the route so located. If any such street surface railroad company is unable to agree for the purchase of any such real property, or of any right or easement therein required for the purpose of its railroad, or if the owner thereof shall be incapable of selling the same, or if, after diligent search and inquiry, the name and residence of such owner can not be ascertained, it shall have the right to acquire title thereto by condemnation in the manner and by the proceedings provided by the condemnation law. Nothing in this section shall be deemed to authorize a street railroad corporation to acquire real property within a city by condemnation. (*Thus amended by chap.* 933, *Laws of* 1895.)

CONSENT OF PROPERTY OWNERS AND LOCAL AUTHORITIES.

§ 91. A street surface railroad, or extensions or branches thereof, shall not be built, extended or operated unless the consent in writing acknowledged or proved as are deeds entitled to be recorded, of the owners, in cities and villages, of one-half in value, and in towns, not within the corporate limits of a city or village, of the owners of two-thirds in value, of the property bounded on, and also the consent of the local authorities having control of that portion of a street or highway upon which it is proposed to build or operate such railroad shall have been first obtained. The consents of property owners in one city, village or town, or in any other civil division of the state, shall not be of any effect in any other city, village or town, or other civil division of the state. Consents of property owners heretofore obtained to the building, extending, operating or change of motive power shall be effectual for the purposes therein mentioned and may be deemed to be sufficiently proved and shall be entitled to be recorded, whenever such consents shall have been signed, executed or acknowledged before an officer authorized by law to take acknowledgments of deeds, or before or in the presence of a subscribing witness, and without regard to whether or not the subscribing witness shall have affixed his signature in the presence of the subscriber, provided that the proof of such signing, execution

or acknowledgment shall have been made by such subscribing witness in the manner prescribed by chapter three, part two of the revised statutes. In cities the common council, acting subject to the power now possessed by the mayor to veto ordinances; in villages the board of trustees, and in towns the commissioner or commissioners of highways shall be the local authorities referred to; if in any city the exclusive control of any street, avenue or other property, which is to be used or occupied by any such railroad, is vested in any other authority, the consent of such authority shall also be first obtained. The value of the property above specified shall be ascertained and determined by the assessment-roll of the city, village or town in which it is situated, completed last before the local authorities shall have given their consent, except property owned by such city, village or town, or by the state of New York, or the United States of America, the value of which shall be ascertained and determined by making the value thereof to be the same as is shown by such assessment-roll to be the value of the equivalent in size and frontage of the adjacent property on the same street or highway; and the consent of the local authorities shall operate as the consent of such city, village or town as the owners of such property. (*Thus amended by chap.* 545, *Laws* 1895.)

CONSENT OF LOCAL AUTHORITIES; HOW PROCURED.

§ 92. The application for the consent of the local authorities shall be in writing, and before acting thereon such authorities shall give public notice thereof and of the time and place when it will first be considered, which notice shall be published daily in any city for at least fourteen days in two of its daily newspapers, if there be two, if not, in one, to be designated by the mayor, and in any village or town for at least fourteen days in a newspaper published therein, if any there shall be, and if none, then daily in two daily newspapers if there be two, if not, one published in the city nearest such village or town. Such consent must be upon the expressed condition that the provisions of this article pertinent thereto shall be complied with, and shall be filed in the office of the clerk of the county in which such railroad is located. Whenever the consent of the common council of a city is applied for, the first consideration, of which notice is hereby required, may be by committee of such common council. Any such notice, publication or consideration heretofore or hereafter given, made or had in substantial conformity with the requirements of this section, is and shall be sufficient notice, publication and consideration for all the purposes hereof

notwithstanding any conflicting provision of any local or special act or charter. (*Thus amended by chap.* 434, *Laws* 1893.)

See, also, chap. 679, Laws 1893, *post.*

CONDITIONS UPON WHICH CONSENT SHALL BE GIVEN; SALE OF FRANCHISE AT PUBLIC AUCTION.

§ 93. The consent of the local authorities in cities containing twelve hundred and fifty thousand inhabitants or more, according to the last federal census or state enumeration, must contain the condition that the right, franchise and privilege of using any street, road, highway, avenue, park or public place shall be sold at public auction to the bidder who will agree to give the city the largest percentage per annum of the gross receipts of such corporation, with a bond or undertaking in such form and amound* and with such conditions and sureties as may be required and approved by the comptroller or other chief fiscal office* of the city, for the fulfillment of such agreement and for the commencement and completion of its railroad within the times hereinafter designated according to the plan or plans and on the route or routes fixed for its construction. Whenever such consent shall provide for the sale at public auction of the right to construct and operate a branch or extension of an existing railroad, such consent shall provide that but one fare shall be exacted for passage over such branch or extension and over the line of road which shall have applied therefor; and further, that if such right shall be purchased by any corporation other than the applicant, that the gross receipts from joint business shall be divided in the proportion that the length of such extension or branch so sold shall bear to the entire length of the road which shall have applied therefor and of such branch or extension, and that if such right shall be purchased by the applicant, the percentage to be paid shall be calculated on such portion of its gross receipts as shall bear the same proportion to the whole value thereof as the length of such extension or branch shall bear to the entire length of its road. The bidder to whom such right, franchise and privilege may be sold must be a duly incorporated railroad corporation of this state, organized to construct, maintain and operate a street railroad in the city for which such consent may be given; but no such corporation shall be entitled to bid at such sale unless at least five days prior to the day fixed for such sale, or five days prior to the day to which such sale shall have been duly adjourned, the corporation shall have filed with the comptroller or other chief fiscal officer of the city, a bond in

* So in the original.

writing and under seal, with sufficient sureties to be approved by such comptroller or officer, conditioned that if such right, franchise and privilege shall be sold to such corporation, to pay to the city where such railroad is situated the sum of fifty thousand dollars as liquidated damages and not by way of penalty in the event of the failure of such bidder to fulfill the terms of sale, comply with the provisions of this article pertinent thereto, and complete and operate its railroad according to the plan or plans and upon the route or routes fixed for its construction within the time hereinafter designated for the construction and completion of its railroad, and also conditioned to pay to the corporation first applying for the consent, if it shall not be the successful bidder, the necessary expenses incurred by such corporation prior to the sale pursuant to the requirements and direction of the local authorities, within twenty days after such sale and upon the certificate of the comptroller or other officer conducting the same as to the sum or amount to be paid. Notice of the time and place and terms of sale, and of the route or routes to be sold, and of the conditions upon which the consent of the local authorities to the construction, operation and extension of such street railroad will be given must be published by such authorities for at least three successive weeks, and in any city having two or more daily newspapers, at least three times a week in two of such papers to be designated by the mayor, and in any city where two daily papers are not published, at least once a week in a newspaper published therein to be designated by the mayor. The comptroller or other chief fiscal officer of the city shall attend and conduct such sale and may twice adjourn the same, but not more than four weeks in all, and shall cancel any bid if the bidder shall not have furnished adequate security entitling such bidder to bid, or shall otherwise fail to comply with the terms and conditions of sale, and shall resell the consent and license in the same manner as hereinbefore provided for the first sale. The bidder who may build and operate such railroad shall at all times keep accurate books of account of the business and earnings of such railroad, which books shall at all times be subject to the inspection of the local authorities. In the event of the failure or refusal of the corporation operating or using such railroad to pay the rental or percentages of gross earnings agreed upon, and after notice of not less than sixty days to pay the same, the local authorities interested therein may apply to any court having jurisdiction upon at least twenty days' notice to such corporation, and after it shall have had an opportunity to be heard in its defense, for judgment declaring the consent and right to oper-

ate and use such railroad forfeited and authorizing the sale again of the same in the manner hereinbefore prescribed, provided, however, that no such resale of any such consent and right heretofore granted shall be authorized except upon the condition that the same shall be subject to all liens and incumbrances existing on said railroads at the time such forfeiture may have been declared. All consents hereafter given by the local authorities, unless it be otherwise provided in such consent or in some renewal thereof may be forfeited at the expiration of two years thereafter, and every such consent heretofore given to a corporation incorporated under chapter one hundred and forty of the laws of eighteen hundred and fifty, or chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four, for the purpose of constructing and operating a street surface railroad only, wholly south of the Harlem river, shall be deemed to be in full force and effect and shall continue until June thirtieth, eighteen hundred and ninety-five, when it shall cease, unless prior thereto the required consent of property owners, or the order of the general term in lieu thereof, shall have been first obtained; and the provisions of this section shall apply to all applications for such consents made under any statute, either before or after the passage of this chapter, and not finally acted upon at the time of its passage. The board of sinking fund commissioners of any city shall have power to compromise or release any existing liability or obligation to the mayor, aldermen and commonalty of such city under the provisions of chapter six hundred and forty-two of the laws of eighteen hundred and eighty-six, or of this chapter whenever, in the opinion of such board, such release or compromise shall be just or equitable, or for the public interest, the reason for any such release or compromise to be stated in the recorded proceedings of such board. Whenever it shall be desired to unite two street surface railroad routes at some point not over one-half mile from such respective lines or routes, and establish by the construction of such connection a new route for public travel, and the corporation or corporations owning or using such railroads shall consent to operate such connection as a part of a continuous route for one fare, and it shall appear to the local authorities that such connection can not be operated as an independent railroad without inconvenience to the public, but that it is to the public advantage that the same should be operated as a continuous line or route with existing railroads, or whenever for the purpose of connecting with any ferry or railroad depot, it shall be desired to construct an extension or branch not more than one-half mile in length, of any street sur-

face railroad corporation, no sale of such franchise shall be made as provided in this section, but any consent of the local authorities for the construction and operation of such connection, extension or branch shall provide that the corporation or corporations operating such connection, extension or branch shall pay into the treasury of said city annually the percentage provided for extensions or branches in section ninety-five of this chapter, for the purposes, at the times, in the manner and upon the conditions set forth in such section. Nothing herein contained shall be construed as applying to or affecting or modifying the terms of a certain contract bearing date January first, eighteen hundred and ninety-two, entered into by and between the city of Buffalo and the various street surface railroad corporations therein named in such contract. The local authorities may, in their discretion, make their consent to depend upon any further conditions respecting other or further security, or deposit, suitable to secure the construction, completion and operation of the railroad within any time not exceeding the period prescribed in this article and respecting the character, quality or motive power of the road to be completed and respecting the application of any provision herein contained as to carriage of passengers for single fare and the division of gross receipts and the payment of percentages to the line leased or operated under contract by the applicant for an extension, and also respecting any other matter concerning which, in their judgment, further conditions would be for the public interest. Any and all proceedings heretofore taken in substantial compliance with the provisions of this section, as now amended, are hereby approved, ratified and confirmed. (*Thus amended by chap.* 434, *Laws* 1893.)

PROCEEDINGS IF PROPERTY OWNERS DO NOT CONSENT.

§ 94. If the consent of property owners required by any provision of this article can not be obtained, the corporation failing to obtain such consents may apply to any general term of the supreme court held in the department in which it is proposed to construct its road for the appointment of three commissioners to determine whether such railroad ought to be constructed and operated. Notice of such application must, at least ten days prior thereto, be served, personally upon each non-consenting property owner by delivering the same to the person to whom such property is assessed upon such assessment-roll or by duly mailing the same, properly folded and directed, to such property owner at his post-office address with the postage prepaid thereon. If the person upon whom service is to be made is unknown, or his residence and post-office address are

unknown and can not by reasonable diligence be ascertained, service of such notice may be made by publishing the same in such newspaper of the county as the court may direct, at least once a week for two successive weeks. Upon due proof of service of such notice the court to which the application is made shall appoint three disinterested persons, who shall act as commissioners, and who shall, within ten days after their appointment, cause public notice to be given of their first meeting in the manner directed by the court, and may adjourn from time to time, until all their business is completed. Vacancies may be filled by the court after such notice to parties interested as it may deem proper to be given; and the evidence taken before as well as after the happening of the vacancy shall be deemed to be properly before such commissioners. After a public hearing of all parties interested, the commissioners shall determine whether such railroad ought to be constructed and operated, and shall make a report thereon, together with the evidence taken, to the general term, within sixty days after appointment, unless the court, or a judge thereof, for good cause shown, shall extend such time; and their determination that such road ought to be constructed and operated, confirmed by such court, shall be taken in lieu of the consent of the property owners hereinbefore required. The commissioners shall each receive ten dollars for each day spent in the performance of their duties and their necessary expenses and disbursements, which shall be paid by the corporation applying for their appointment. (*Thus amended by chap.* 676, *Laws* 1892.)

PERCENTAGE OF GROSS RECEIPTS TO BE PAID IN CITIES OR VILLAGES; REPORT OF OFFICERS.

§ 95. Every corporation building or operating a railroad, or a branch or extension thereof, under the provisions of this article, or of chapter 252 of the laws of 1884, within any city of this state having a population of 1,200,000 or more, shall, for and during the first five years after the commencement of the operation of any portion of its railroad annually, on November first, pay into the treasury of the city in which its road is located, to the credit of the sinking fund thereof, three per cent. of its gross receipts for and during the year ending September thirtieth next preceding; and after the expiration of such five years, make a like annual payment into the treasury of the city to the credit of the same fund, of five per cent. of its gross receipts. If a street surface railroad corporation existing and operating any such railroad in any such city on May 6, 1884, shall have thereafter extended its tracks or constructed branches therefrom,

and shall operate such branches or extensions under the provisions of chapter 252 of the laws of 1884, or of this article, such corporation shall pay such percentages only upon such portion of its gross receipts as shall bear the same proportion to its whole gross receipts as the length of such extension or branches shall bear to the entire length of its line. In any other incorporated city or village the local authorities shall have the right to require, as a condition to their consent to the construction, operation or extension of a railroad under the provisions of this article, the payment annually of such percentage of gross receipts, not exceeding three per cent., in the treasury of the city or village as they may deem proper. In case of extension the amount to be paid shall be ascertained in the manner heretofore provided. The corporation failing to pay such percentage of its gross earnings, shall after November first, pay in addition thereto five per cent. a month on such percentage until paid. The president and treasurer of any corporation required by the provisions of this article to make a payment annually upon its gross receipts shall, on or before November first in each year, make a verified report to the comptroller or chief fiscal officer of the city of the gross amount of its receipts for the year ending September thirtieth, next preceding, and the books of such corporation shall be open to inspection and examination by such comptroller or officer or his duly appointed agent, for the purpose of ascertaining the correctness of its report as to its gross receipts. The corporate rights, privileges and franchises acquired under this article or such chapter by any corporation, which shall fail to comply with all the provisions of this section, shall be forfeited to the people of the state, and upon judgment of forfeiture rendered in an action brought in the name of the people by the attorney-general, shall cease and determine. (*Thus amended by chap.* 676, *Laws* 1892.)

EXTENSION OF ROUTE OVER RIVERS; TERMINUS IN OTHER COUNTIES; WHEN PROPERTY OWNERS WITHHOLD CONSENT SUPREME COURT MAY APPOINT COMMISSIONERS.

§ 96. Any street railroad except in the counties of New York or Kings, now in operation in this state, which shall, by a two-thirds vote of its directors, decide to extend the route of its road, so as to cross the Hudson river over and by any bridge now or hereafter constructed under the provisions of any law of this state, may so extend their route over and across such bridge upon such terms as may be mutually agreed upon between it and such bridge company, and may locate the terminus of their road in the county adjoining

the one in which their road is now located and in operation. Upon first obtaining the consent of such bridge company or its lessees, and the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railroad, or in case the consent of such property owners can not be obtained the general term of the supreme court in the district in which it is proposed to be constructed may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

USE OF TRACKS OF OTHER ROADS.

§ 97. Any railroad corporation in this state, whose cars are run and operated by horses or other motive power, authorized by this article, upon the surface of the street, excepting in the city and county of New York, may, for the purpose of enabling it to connect with and run and operate its cars between its tracks and a depot or car-house owned by it, run upon, intersect, and use, for not exceeding five hundred feet, the tracks of any other railroad corporation, the cars of which are run and operated in like manner with the necessary connections and switches for the proper working and accommodation of the cars upon such tracks, and in connection with such depot or car-house, upon paying therefor such compensation as it may agree upon with the corporation owning the tracks to be so run upon, intersected, and used; and in case such corporations can not agree upon the amount of such compensation, the same shall be ascertained and determined in the manner prescribed in the condemnation law.

REPAIR OF STREETS; RATE OF SPEED; REMOVAL OF ICE AND SNOW.

§ 98. Every street surface railroad corporation so long as it shall continue to use any of its tracks in any street, avenue or public place in any city or village, shall have and keep in permanent repair that portion of such street, avenue or public place between its tracks, the rails of its tracks, and two feet in width outside of its tracks, under the supervision of the proper local authorities, and whenever required by them to do so, and in such manner as they may prescribe. In case of the neglect of any corporation to make

pavements or repairs after the expiration of thirty days' notice to do so, the local authorities may make the same at the expense of such corporation, and such authorities may make such reasonable regulations and ordinances as to the rate of speed, mode of use of tracks, and removal of ice and snow, as the interest or convenience of the public may require. A corporation whose agents or servants willfully or negligently violate such an ordinance or regulation, shall be liable to such city or village for a penalty not exceeding five hundred dollars to be specified in such ordinance or regulation. (*Thus amended by chap.* 676, *Laws* 1892.)

WITHIN WHAT TIME ROAD TO BE BUILT.

§ 99. In case any such corporation shall not commence the construction of its road, or of any extension or branch thereof, within one year after the consent of the local authorities and property owners or the determination of the general term as herein required, shall have been given or renewed, and shall not complete the same within three years after such consents, its rights, privileges and franchises in respect of such railroad extension or branch as the case may be, may be forfeited. If the performance of any such act, within such time, is prevented by legal proceedings in any court, such court may also extend such time for such period as the court shall deem proper. The time for compliance with this requirement in this or any former act, by a street surface railroad corporation incorporated for the purpose of constructing a street surface railroad only, wholly south of the Harlem river and in cities of over twelve hundred thousand inhabitants and which has heretofore obtained such consents, is hereby extended until June thirtieth, eighteen hundred and ninety-five. (*Thus amended by chap.* 434, *Laws* 1893.)

MOTIVE POWER.

§ 100. Any street surface railroad may operate any portion of its road by animal or horse power, or by cable, electricity, or any power other than locomotive steam power, which may be approved by the state board of railroad commissioners, and consented to by the owners of one-half of the property bounded on that portion of the railroad with respect to which a change of motive power is proposed; and if the consent of such property owners can not be obtained, the determination of three disinterested commissioners, appointed by the general term of the supreme court of the department in which such railroad is located, in favor of such motive power, confirmed by the

court shall be taken in lieu of the consent of the property owners. The consent of the property owners shall be obtained and the proceedings for the appointment and the determination of the commissioners and the confirmation of their report shall be conducted in the manner prescribed in sections 91 and 94 of this article so far as the same can properly be made applicable thereto.

Any railroad corporation making a change in its motive power under this section, may make any changes in the construction of its road or roadbed or other property rendered necessary by the change in its motive power. (*Thus amended by chap.* 676, *Laws* 1892.)

RATE OF FARE.

§ 101. No corporation constructing and operating a railroad under the provisions of this article, or of chapter 252 of the laws of 1884, shall charge any passenger more than five cents for one continuous ride from any point on its road, or on any road, line or branch operated by it, or under its control, to any other point thereof, or any connecting branch thereof, within the limits of any incorporated city or village. Not more than one fare shall be charged within the limits of any such city or village, for passage over the main line of road and any branch or extension thereof, if the right to construct such branch or extension shall have been acquired under the provisions of such chapter or of this article. This section shall not apply to any part of any road constructed prior to May 6, 1884, and then in operation, unless the corporation owning the same shall have acquired the right to extend such road, or to construct branches thereof under such chapter, or shall acquire such right under the provisions of this article, in which event its rate of fare shall not exceed its authorized rate prior to such extension. The legislature expressly reserves the right to regulate and reduce the rate of fare on any railroad constructed and operated wholly or in part under such chapter or under the provisions of this article. (*Thus amended by chap.* 676, *Laws* 1892.)

CONSTRUCTION OF ROAD IN STREET WHERE OTHER ROAD IS BUILT.

§ 102. No street surface railroad corporation shall construct, extend or operate its road or tracks in that portion of any street, avenue, road or highway, in which a street surface railroad is or shall be lawfully constructed, except for necessary crossings or, in cities, villages and towns of less than one million two hundred and fifty thousand inhabitants over any bridges without first obtaining the consent

of the corporation owning and maintaining the same, except that any street surface railroad company may use the tracks of another street surface railroad company for a distance not exceeding one thousand feet, and if in a city having a population of less than thirty-five thousand inhabitants, except Long Island City, for a distance not exceeding fifteen hundred feet, and in cities, villages and towns of less than one million two hundred and fifty thousand inhabitants, shall have the right to lay its tracks upon, and run over and use any bridges used wholly or in part as a foot-bridge, whenever the court upon an application for commissioners shall be satisfied that such use is actually necessary to connect main portions of a line to be constructed or operated as an independent railroad, or to connect said railroad with a ferry, or with another existing railroad, and that the public convenience requires the same, in which event the right to use shall only be given for a compensation to an extent and in a manner to be ascertained and determined by commissioners to be appointed by the courts as is provided in the condemnation law, or by the board of railroad commissioners in cases where the corporations interested shall unite in a request for such board to act. Such commissioners in determining the compensation to be paid for the use by one corporation of the tracks of another shall consider and allow for the use of the tracks for all injury and damage to the corporation whose tracks may be so used. Any street surface railroad corporation may, in pursuance of a unanimous vote of the stockholders voting at a special meeting called for that purpose by notice in writing, signed by a majority of the directors of such corporation, stating the time, place and object of the meeting, and serving upon each stockholder appearing as such upon the books of the corporation, personally or by mail, at his last-known post-office address, at least sixty days prior to such meeting, guarantee the bonds of any other street surface railroad corporation whose road is fully or partly in the same city or town or adjacent cities or towns. (*Thus amended by chap.* 693, *Laws* 1894.)

ABANDONMENT OF PART OF ROUTE.

§ 103. Any street surface railroad corporation which is the lessee or lessor, or both, or which has the right to use the route or portion of the route of another such corporation pursuant to a lease or agreement lawfully entered into with it, may declare any portion of its own route which it may deem no longer necessary for the successful operation of its road and convenience of the public in consequence of such lease or contract, to be relinquished or abandoned. Such

declaration of abandonment must be adopted by the board of directors of the corporation under its seal, which shall be submitted to the stockholders thereof at a meeting called and conducted in the same manner as required by law for meetings of stockholders for the approval of leases by railroad corporations for the use of their respective roads. If the stockholders shall, at such meeting, ratify and adopt such declaration of abandonment, the secretary of the company shall so certify under the seal of the corporation, upon such declaration. Such declaration shall then be submitted to the board of railroad commissioners for its approval, and if approved by such board, such approval shall be indorsed thereon or annexed thereto, and the declaration so certified and indorsed shall be filed and recorded in the office of the secretary of state, and from the time of such filing, such portion of the route designated in the declaration shall be deemed to be abandoned. (*Thus amended by chap.* 676, *Laws* 1892.)

CONTRACTING CORPORATIONS TO CARRY FOR ONE FARE; PENALTY.

§ 104. Every such corporation entering into such contract shall carry or permit any other party thereto to carry between any two points on the railroads or portions thereof embraced in such contract any passenger desiring to make one continuous trip between such points for one single fare, not higher than the fare lawfully chargeable by either of such corporations for an adult passenger. Every such corporation shall upon demand, and without extra charge, give to each passenger paying one single fare a transfer, entitling such passenger to one continuous trip to any point or portion of any railroad embraced in such contract, to the end that the public convenience may be promoted by the operation of the railroads embraced in such contract substantially as a single railroad with a single rate of fare. For every refusal to comply with the requirements of this section the corporation so refusing shall forfeit fifty dollars to the aggrieved party. The provisions of this section shall only apply to railroads wholly within the limits of any one incorporated city or village. (*Thus amended by chap.* 676, *Laws* 1892.)

EFFECT OF DISSOLUTION OF CHARTER AS TO CONSENTS.

§ 105. Whenever any street surface railroad corporation shall have been dissolved or annulled, or its charter repealed by an act of the legislature, the consent of owners of property bounded on, and the consent of the local authorities having the control of that portion of a street or highway upon which the railroad of such corporation

shall have been theretofore constructed and operated, and the order of the general term confirming the report of any commissioner that such railroad ought to be constructed or operated, shall not, nor shall either thereof, be deemed to be in any way impaired, revoked, terminated or otherwise affected by such act of dissolution, annulment or repeal, but the same and each thereof shall continue in full force, efficacy and being. The right to the further enjoyment and to the use thereof, subsequent to such act of dissolution, annulment or repeal, and of all the powers, privileges and benefits therein or thereby created, shall be sold at public auction by the local authorities within whose jurisdiction such railroad shall be, in the same manner as is provided in section 93 of this article. When such sale shall have been so made, the purchaser thereat shall have the right to the further enjoyment and use of such consents and orders, and of each thereof, and of all the powers, privileges and benefits therein or thereby created, in like manner as if such purchaser had been originally named in such consents, reports and orders; if such purchaser shall be otherwise authorized by law to construct, maintain and operate a street surface railroad within the municipality within which such railroad shall be. (*Thus amended by chap.* 676, *Laws* 1892.)

CORPORATE RIGHTS SAVED IN CASE OF FAILURE TO COMPLETE ROAD; RIGHT TO OPERATE BRANCHES; CONDITIONS; FORMER CONSENTS RATIFIED; LIMITATIONS.

§ 106. The corporate existence of and powers of every street surface railroad corporation, which has completed a railroad upon the greater portion of the route designated in its certificate of incorporation, within ten years from the date of filing such certificate in the office of the secretary of state, and which has operated such completed portion of its railroad continuously for a period of five years last past, and is now operating the same, shall continue with like force and effect, as though it had in all respects complied with the provisions of law with reference to the time when it should have fully completed its road. Every such corporation shall have the right to operate any extentions* and branches of its railroad, now constructed and operated by it, which have been so constructed and operated by it, for a period of ten years last past, with like force and effect, as though the route of such extentions* and branches were designated in its certificate of incorporation. But every such street railroad corporation is authorized to operate such railroad and any extention* or branches thereof, upon condi-

* So in the original.

tion that it has heretofore, or shall hereafter, obtain the consent of the local authorities having the control of that portion of the streets, avenues or highways included in such railroad, or any extension or branches thereof, to the construction and operation of the same, and also upon the condition that it has heretofore or shall hereafter first obtain the consent of the owners of one-half in value of the property bounded on the portion of the streets, avenues or highways included in the route of such railroad, or any extention* or branches thereof, to the construction and operation of the same or in case the consent of such property owners can not be obtained, the general term of the supreme court of the department in which such railroad or any extension or branch thereof is located, may, upon application, appoint three commissioners who shall determine, after a hearing of all the parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners. All consents heretofore given, or grants made by local authorities having the control of the portion of any street, avenue or highway included in the route of such railroad, or any extensions or branches thereof, to any such street surface railroad corporation, are hereby ratified and confirmed and declared valid. This section shall be applicable to any such corporation in any town, city or village having less than twenty thousand inhabitants which has completed any portion of its road upon the route designated in its certificate of incorporation within the time required by law for the completion of its road. This section shall not apply to or affect any railroad corporation in the city of New York; nor any special grant made to or authority conferred upon any street surface railroad corporation by any law of this state; nor any pending litigation; nor shall it impair existing rights, privileges or franchises of any street surface railroad corporation. (*Thus amended by chap.* 676, *Laws* 1892.)

WHEN SAND MAY BE USED ON TRACKS.

† § 107. The owner or operator of any street surface railroad in cities of this state having a population of five hundred thousand or more, may place upon the space between the rails of such road sand in sufficient quantities and no more to prevent the horses traveling thereon from slipping. (*Thus amended by chap.* 676, *Laws* 1892.)

* So in the original. † See, also, chap. 460, Laws 1892.

ROAD NOT TO BE CONSTRUCTED UPON GROUND OCCUPIED BY PUBLIC BUILDINGS OR IN PUBLIC PARKS.

* § 108. No street surface railroad shall be constructed or extended upon ground occupied by buildings belonging to any town, city, county or to the state, or to the United States, or in public parks, except in tunnels to be approved by the local authorities having control of such parks. (*Thus amended by chap.* 676, *Laws* 1892.)

CENTER-BEARING RAILS PROHIBITED.

§ 109. No street surface railroad corporation shall hereafter lay down in the streets of any incorporated city or village of this state what are known as "center-bearing" rails; but in all cases, whether in laying new track or in replacing old rails, shall lay down "grooved" or some other kind of rail not "center-bearing" approved by the local authorities. Such grooved or other rail shall be of such shape and so laid as to permit the paving stones to come in close contact with the projection which serves to guide the flange to the car wheel.

Where in any city, the duty of repairing and repaving streets, as distinguished from the authorization of such paving, repairing and repaving, is by law vested in any local authority other than the common council of such city, such other local authority shall be the local authority referred to in this section. (*Thus amended by chap.* 676, *Laws* 1892.)

RIGHT TO CROSS BRIDGE SUBSTITUTED FOR BRIDGE CROSSED FOR FIVE YEARS.

§ 110. Should any street surface railroad company have crossed any bridge as a part of its route for a period of more than five years and should any other bridge be substituted therefor at any time, such company shall have the right to cross such substituted bridge and to lay and use railway tracks thereon for the transit of its cars and to make all changes and extensions of its route subject to all the provisions of this act, as the convenient operation of its cars and the public convenience may require. (*This section was added by chap.* 676, *Laws* 1892.)

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* See, also chap. 460, Laws 1892.

ARTICLE V.

OTHER RAILROADS IN CITIES AND COUNTIES.

SECTION 120. Application for railway; commissioners.
121. Oath and bond of commissioners.
122. First meeting commissioners.
123. Determination of necessity of railroad and route.
124. Adoption of plans and terms upon which road shall be built.
125. Appraisal of damages and deposit of money as security.
126. Shall prepare certificate of incorporation; proviso as to forfeiture.
127. Organization.
128. Commissioner to deliver certificate; affidavit of directors.
129. Powers.
130. Crossing of horse railroad track.
131. Where route coincides with another route.
132. Commissioners; to transfer plans, etc.
133. Commissioners to file report; confirmation thereof.
134. Pay of commissioners.
135. Quorum, term of office; removal vacancies in board of commissioners.
136. Abandonment or change of route; new commissioners; their power and proceedings.
137. Increased deposit; when and how required.
138. Trains to come to full stop, etc.
139. Gates.
140. Penalty for violation of this article.
141. Sections to be printed and posted.
142. Extension of time.

APPLICATION FOR RAILWAY; COMMISSIONERS.

§ 120. Upon the application of at least fifty reputable householders and taxpayers of any county or city, verified upon oath before a justice of the supreme court, that there is need in said county or city of a steam railway in the streets, avenues and public places thereof for the transportation of passengers, mails or freight, the board of supervisors of such county may, within thirty days thereafter by resolution, approve of the application, and authorize its presentation to the supreme court, and if the railway is to be built wholly within the limits of a city, upon the application of a like number of householders and taxpayers of the city to the mayor thereof, such mayor may, within thirty days thereafter, indorse upon the application his approval and direction that it may be presented to the supreme court, and if the railway is to be built, partly within the limits of a city and partly without, such application shall be approved, both by the mayor of the city and the board of supervisors of the county, and its presentation to the supreme court authorized by them, and upon the presentation of such application so approved and authorized to a special term of the supreme court, held in the

district where such railway is to be built, or some part thereof, the court may appoint five commissioners, resident of the city if the railway is to be built wholly within the city, and of the county, if it is to be built wholly or partly outside of the limits of the city, to determine the necessity of such railroad, the route thereof, the time within which and the conditions upon which it shall be constructed, the damages to the property owners along the line thereof and all the matters lawfully submitted to them, and discharge the duties imposed upon them by law.

OATH AND BOND OF COMMISSIONERS.

§ 121. Within ten days after his appointment and before entering upon the discharge of any of the duties of his office, each commissioner shall take and subscribe the constitutional oath of office, which shall be filed in the office of the clerk of the county and shall execute a bond to the people of the state in the penal sum of twenty-five thousand dollars, with two or more sureties, to be approved by a justice of the supreme court of the department in which the railway is to be built and conditioned for the faithful performance of the duties of the office, which bond shall be filed in the office of the clerk of the county.

FIRST MEETING OF COMMISSIONERS.

§ 122. Within fifteen days after their appointment, the commissioners shall meet in some convenient place in the county or city and organize themselves as a board with appropriate officers.

DETERMINATION OF NECESSITY OF RAILROAD AND ROUTE.

§ 123. The commissioners shall, within thirty days after such organization, determine upon the necessity of such steam railroad, and if they find it to be necessary, they shall, within sixty days after such organization fix and determine the route therefor, and shall have the exclusive power to locate such route, over, under, through or across the streets, avenues, places or lands in such county or city, and to provide for the connection or junction with any other railway or bridge, if the consent of the owners of one-half in value of the property bounded on and the consent of the local authorities having control of that portion of a street or highway, upon which it is proposed to construct or operate such railway have been first obtained. If the consent of such property owners can not be obtained, the determination of three commissioners appointed by the general term of the supreme court of the department where the railroad is to be

constructed, made after due hearing of all parties interested, and confirmed by the court, that such railway ought to be constructed and operated, may be taken in lieu of the consent of such property owners. No such railway shall be located in or upon such portion of any street, avenue, place or lands in such county as are now occupied by an elevated or underground railway or in which such railway has already been authorized by law to be so located and constructed, or which are contained in public parks, or occupied by buildings belonging to the county or the state or United States, or in or upon the following streets, avenues and public places, viz.: Broadway, Fifth avenue, Fourth avenue above Forty-second street, in the city of New York; Debevoise place, Irving place, Lefferts place, those portions of Grand, Classon and Franklin avenues and Dowling street lying between the southerly line of Lexington avenue and the northerly line of Atlantic avenue, that portion of Classon avenue lying between the northerly line of Lexington avenue and the southerly line of Park avenue, and that portion of Washington avenue lying between Park and Atlantic avenues in the city of Brooklyn; and that portion of the city of Buffalo lying between Michigan and Main streets, but such railway may be located and constructed across such excepted streets, avenues and places at their intersection only with other streets, avenues and places. (*Thus amended by chap.* 676, *Laws* 1892.)

ADOPTION OF PLANS, AND TERMS UPON WHICH ROAD SHALL BE BUILT.

§ 124. The commissioners by such public notice, and under such conditions, and with such inducements as they may prescribe, shall invite a submission of plans for the construction and operation of such railway, and shall meet at a time and place in such notice named, not more than ninety days after their organization, and decide upon plans for the construction thereof, with the necessary supports, turnouts, switches, sidings, connections, landing-places, stations, buildings, platforms, stairways, elevators, telegraph and signal devices, or other requisite appliances, upon the route or location determined upon by them. They shall upon notice to the local authorities, and after hearing all parties interested, fix and determine what compensation, if any, in a gross sum, or in a certain percentage of receipts, shall annually be paid to the local authorities by the corporation formed for the purpose of constructing, maintaining and operating such railway for public use in the conveyance of persons and property, for the use and occupation by the corpora-

tion of the streets, avenues and highways in and upon which its railway is to be constructed, and the time when such railway, or a portion thereof, shall be constructed and ready for operation, and the maximum rates to be paid for transportation and conveyance thereon, and the hours during which special cars or trains shall be run at reduced rates of fare; and the amount of the capital stock of such corporation and the number of shares into which it shall be divided, and the percentage thereof to be paid in cash on subscribing for such shares.

The commissioners may select two or more routes, upon one of which such railway may be constructed and operated; and the local authorities may consent to the construction and operation of such railway upon one or more of such routes, or parts thereof; and the commissioners shall have power to change and readopt routes and plans for the construction and operation of such railway, after they have been submitted to the local authorities, in case where such authorities may recommend such changes, or may not be willing to consent to the construction or operation of the railway, upon the routes, and plans adopted, unless such changes are made therein. (*Thus amended by chap.* 676, *Laws* 1892.)

APPRAISAL OF DAMAGES AND DEPOSIT OF MONEY AS SECURITY.

§ 125. The commissioners shall, within one hundred and ten days after their organization, ascertain and determine the aggregate pecuniary damages arising from the diminution in the value of the property bounded on that portion of such street or streets, highway or highways, upon which it is proposed to construct and operate such railway to be caused by the construction and operation thereof. For that purpose they shall view the several parcels of real property so bounded, and shall appraise separately the pecuniary damages arising from such diminution in value of each parcel thereof, and for the purposes of such appraisals they shall give notice of the time and place, when and where they will meet to hear the owners or persons interested in such real property, which notice shall be published for at least ten days consecutively in at least two newspapers in the county where such railway is to be constructed, and shall take such material testimony upon the probable diminution in value of any or all such parcels to be so caused as may be offered by or in behalf of any person or party interested therein, and the aggregate sum of the amounts so appraised and determined by them shall be the aggregate pecuniary damage required to be ascertained and determined as above pro-

vided. No corporation which shall hereafter be organized under this article shall enter upon any street, highway or lane therein, until it shall first have deposited with some trust company, to be designated by the mayor of the city within which it is proposed to construct the railway or any part thereof, and by the board of supervisors, when the road does not lie wholly within a city, a sum of money equal to the amount so ascertained and determined by the commissioners to be the aggregate pecuniary damage to such property within the city, or within the county outside of any city, or shall have secured the payment of such amount by depositing with such trust company negotiable securities, equivalent at their par and actual value to such aggregate amount, and approved by the mayor of the city in which such road is wholly or in part located, and by the county treasurer of the county if the road is located wholly or in part outside of the limits of such city. The court may accept in lieu of the deposit of money or securities herein required the bond of the corporation, with two or more securities, to be approved by the court, to the effect that the corporation before constructing or operating its railway in front of any premises, shall pay to the owner of the real property all the damages sustained, or which will be sustained by him, as fixed and determined by such commissioners, and the costs allowed, if any. Such bond shall be in a sum double the amount of such damages, and the sureties shall justify in the aggregate to an amount equal to the amount of such bond. Such corporation shall also, at the same time, deposit with such trust company or with the county treasurer, as the commissioners may direct, the sum of five thousand dollars in cash, for the payment of the expense of apportioning and distributing such fund. Unless such moneys or securities shall be deposited by such corporation within one year after it shall have obtained the consent of the local authorities, and of the property owners, or the confirmation by the general term of the supreme court, of the determination of three commissioners in lieu thereof, and in the case of a corporation heretofore organized within one year after it shall have obtained the confirmation by the general term of the supreme court of the report of three commissioners in lieu of the consent of property owners, or within one year after the commissioners appointed to ascertain and determine the aggregate pecuniary damages as provided in this article, shall have made their report, then such corporation shall be deemed not to have accepted the franchises granted. Where the commissioners shall fix and determine different periods of time within which different sections of such railway shall be con-

structed and ready for operation, they shall ascertain, determine, and report separately the aggregate pecuniary damage to property bounded upon that portion of such street or streets upon which each of such sections is located. Upon the deposit by the corporation as above provided of moneys or securities equivalent to the aggregate pecuniary damage to be sustained by any one of such sections, or of any bond given in lieu thereof, it shall immediately be vested with the right and privilege to construct its railway through such section. (*Thus amended by chap.* 676, *Laws* 1892.)

SHALL PREPARE CERTIFICATE OF INCORPORATION; PROVISO AS TO FORFEITURE.

§ 126. The commissioners shall prepare an appropriate certificate of incorporation for the corporation in the last section mentioned in which shall be set forth and embodied, as component parts thereof, the several conditions, requirements and particulars by such commissioners determined pursuant to the provisions of this article, and which shall also provide for the release and forfeiture to the supervisors of the county, or if the road is to be constructed wholly or partly within a city, to such city, of all rights and franchises acquired by such corporation in case such railway or railways shall not be completed within the time and upon the conditions therein provided; and the commissioners shall thereupon and within one hundred and twenty days after their organization, cause a suitable book of subscription to the capital stock of such corporation, to be opened pursuant to due public notice at a banking office in such county or city. A failure by any corporation heretofore or hereafter organized under this article to complete its railway within the time limited in and by its certificate of incorporation shall only work a forfeiture of the franchises of such corporation with respect to that portion of its route which such corporation shall have failed to complete, and shall not affect the rights and franchises of such corporation to construct and operate such part of its railway which it shall have completed within the term prescribed by its certificate of incorporation, or as to which the time for completion shall not have expired, notwithstanding anything to the contrary in its certificate of incorporation.

ORGANIZATION.

§ 127. Whenever the whole capital stock of such corporation or an amount of such capital stock proportioned to the part of such railway directed by the commissioners to be constructed, shall have been subscribed by not less than fifteen persons, and the fixed per-

centage of such subscriptions shall have been paid, in cash, the commissioners shall, by written or printed notice of ten days, served personally or by mail, call a meeting of such subscribers for organization, and appoint the inspectors of election to serve thereat. At such meeting, or at any subsequent one to which the same may be adjourned, a majority in number and amount of such subscribers may elect persons, of a number to be theretofore determined by the commissioners not less than nine, who shall be directors for one year of the corporation formed for the purposes of constructing and operating such railway.

COMMISSIONERS TO DELIVER CERTIFICATE; AFFIDAVIT OF DIRECTORS.

§ 128. Within ten days after the election of such directors the commissioners shall deliver to them a certificate in duplicate, verified by the oath of three commissioners, before a justice of the supreme court, setting forth the certificate of incorporation and the organization of the corporation for the purposes therein mentioned, and within five days after the reception by them of such certificates, three of the directors so elected shall make affidavit in duplicate that the full amount of stock has been subscribed in good faith to construct, maintain and operate the railway or railways in such certificate of incorporation mentioned, and such directors shall file such affidavits and certificate in the office of the secretary of state, and a duplicate of the same in the office of the clerk of the county wherein such railway shall be located; and thereupon the persons who have so subscribed such certificate of incorporation and all persons who shall become stockholders in such corporation shall be a corporation by the name specified in such certificate, and be subject to the duties, liabilities and restrictions of such corporations.

POWERS.

§ 129. Every such corporation shall have power, in addition to the powers conferred by the general and stock corporation laws and by subdivisions two, five and seven of section eight of this chapter:

1. To take and convey persons and property on their railroad by the power or force of steam or by any motor other than animal power, and to receive compensation therefor.

2. To enter upon and underneath the several streets, avenues and public places and lands designated by the commissioners, and enter into and upon the soil of the same, to construct, maintain, operate and use in accordance with the plan adopted by the commissioners,

a railway upon the route or routes and to the points decided upon and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon such plan and for operating the same; and to make such excavations and openings along the route through which such railways shall be constructed as shall be necessary from time to time. In all cases the surface of the streets around such foundations, piers and columns shall be restored to the condition in which they were before such excavations were made, as near as may be, and any interference with or change in the water mains, or in the sewers or lamp posts, except such changes as may be made with the concurrence of the proper department or authority shall be avoided; and the use of the streets, avenues, places and lands designated by the commissioners and the right of way through the same for the purpose of a railway, as herein authorized, shall be considered and is hereby declared to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held. No such corporation shall have the right to acquire the use or occupancy of public parks or squares in any such city or county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction, and no such railway shall be constructed across the track of any steam railway now in actual operation at the grade thereof, nor shall any piers or supports for any elevated railway be erected upon a railway track now actually in use in any street or avenue; and no such corporation shall construct a street surface railroad to run in whole or in part upon the surface of any street or highway under the provisions of this article.

CROSSING OF HORSE RAILROAD TRACK.

§ 130. Whenever the route selected by the commissioners for the construction of such railway shall intersect, cross or coincide with any horse railway track occupying the surface of the street or avenues, such railway corporation is hereby authorized to remove, for the purpose of constructing its road, the tracks of such horse railway; but the same shall be done in such manner as to interfere as little as possible with their practical operation or working, and upon the construction of such railway, where such removals or changes have been made, the same shall be restored as near as may

be to the condition in which they were previous to the construction of such railroad. All such removals and restorations shall be made at the proper cost and charges of such corporation, but no authority is herein given to any such corporation to use the tracks of any horse railway.

WHERE ROUTE COINCIDES WITH ANOTHER ROUTE.

§ 131. Whenever the route or routes determined upon by the commissioners coincide with the route or routes covered by the charter of an existing corporation, formed for the purpose of constructing and operating such a railway, and it has not forfeited its charter or failed to comply with the provisions thereof, requiring the construction of a road or roads within the time therein prescribed, such corporation shall have the like power to construct and operate such railway upon the fulfillment of the like requirements and conditions imposed by the commissioners as a corporation specially formed under this article, and the commissioners may fix and determine the route or routes by which any elevated steam railway now in actual operation may connect with other steam railways or the depots thereof, or with steam ferries, upon making compensation therefor, and in case such corporations can not agree with the owners of such steam railways, depots or ferries upon the amount of such compensation, and such owners may be entitled to compensation therefor, the amount of such compensation shall be ascertained and paid in the manner prescribed in the condemnation law, and upon fulfillment by such elevated railway corporation, and so far as it relates to such connection, of the requirements and conditions imposed by this article, it shall possess all the powers conferred by section 129 of this article, and when any connecting route or routes shall be so designated, such elevated railway corporation may construct such connection with all the rights and with like effect as though the same had been part of the original route of such railway. (*Thus amended by chap.* 676, *Laws* 1892.)

COMMISSIONERS TO TRANSFER PLANS, ETC.

§ 132. Within one month after such corporation shall have been formed and organized in the manner hereinbefore provided, the commissioners shall transfer and deliver to the corporation all plans, specifications, drawings, maps, books and papers in their possession, and they shall, within the like period of one month after the organization of such corporation, cause to be paid to the treasurer thereof all money collected under the provisions of this article, after deduct-

ing therefrom the necessary expenses incurred by the commissioners and the amounts due to them for their salaries.

COMMISSIONERS TO FILE REPORT; CONFIRMATION THEREOF.

§ 133. The commissioners shall within one hundred and forty days after their appointment, make a report to a special term of the supreme court of the department in which such railway may be located, of the amount of the pecuniary damage arising from the diminution of the value of each parcel of property bounded on that portion of the street or streets, highway or highways, upon which it is proposed to construct such railway or railways, which will be caused by the construction, maintenance and operation thereof. The name and place of residence of the owner or owners of each parcel shall be stated if the same are known, or can be ascertained, and if not known the name of the person or persons appearing by the certificate of the clerk or register of the county, to have the title thereto from the records in his office, and a specific description of each parcel of property with reasonable certainty. The testimony, if any, taken by the commissioners as to the amount of such damage shall accompany their report. Within thirty days after filing and recording its certificate of incorporation, the corporation authorized to construct and operate such railway or railways shall move to confirm such report by giving notice of such motion to the property owners in the manner in which notice of the time and place of hearing before the commissioners is required by section 125 to be given, and if the corporation fails to so move, any property owner may make the motion; and thereafter the proceedings shall be conducted in the manner prescribed in the condemnation law. Before constructing and operating its railway in front of any real property bounded upon any street, avenue or public place wherein the corporation is authorized by the certificate and report of the commissioners to construct and operate its road, such corporations shall pay to the owner of the real property the damages sustained or which will be sustained by him in consequence thereof, as finally fixed and ascertained, and the costs allowed him, if any, and the court may direct that such damages be paid out of the moneys deposited pursuant to the provisions of section 125, or in case negotiable securities shall have been deposited in lieu of money, that so much of such securities shall be sold as may be necessary to raise the amount required to be paid to such owner for damages and costs if any. If a bond shall have been executed in lieu of such deposit, the court may order the sureties in such bond to pay the damages so fixed and

ascertained, and in default thereof, may cause them to be proceeded against and punished as for a contempt of court. (*Thus amended by chap.* 676, *Laws* 1892.)

PAY OF COMMISSIONERS.

§ 134. Each of the commissioners shall be paid for his services at the rate of ten dollars per day for each day of actual service as such commissioner, and all expenses necessarily incurred by him in the discharge of his duties, to be paid by such corporation, but if a sufficient amount of capital stock shall not be subscribed within one year after the appointment of such commissioners to authorize the formation of such corporation, the commissioners shall receive no salary, and shall cause to be returned to the subscribers for such stock the amounts paid in by them, after deducting therefrom the necessary expenses incurred by the commissioners, but the time, if any, unavoidably consumed by the pendency of legal proceedings shall not be deemed a part of any period of time limited by this article.

QUORUM; TERM OF OFFICE; REMOVAL; VACANCIES IN BOARD OF COMMISSIONERS.

§ 135. A majority of the members of any board of commissioners appointed under this article shall be a quorum for the transaction of any business or the performance of any duty or function, or the exercise of any power, conferred or enjoined upon them. Any commissioner may be removed for cause at any time by the power appointing him, but no commissioner shall be removed without due notice and an opportunity to be heard in defense; and no commissioner thus removed is, or shall be eligible to be again appointed to the office of commissioner. In case of the death, resignation or removal from office of any commissioner the vacancy shall be filled by the power appointing him, within thirty days after such removal, or within thirty days after notice in writing to such appointing power given by some member of the board, or by the corporation hereinafter mentioned, of such death or resignation, and a certificate of every such appointment shall be filed as hereinbefore required. Except as otherwise provided by law, the terms of office of the commissioners shall determine and expire with the performance of their functions as hereinabove prescribed.

ABANDONMENT OR CHANGE OF ROUTE; NEW COMMISSIONERS; THEIR POWERS AND PROCEEDINGS.

§ 136. Any corporation heretofore organized or hereafter to be organized under this article, its successors or assigns, which shall

have constructed or put in operation a railway upon a part and not upon the whole of the route fixed, determined and located for such railway by a board of commissioners, may at any time apply for authority to abandon any portion of the route upon which the railway shall not have been theretofore constructed or shall not then be in operation, with or without a change and relocation of such portion, and with or without extension of the portion not abandoned, or of any part thereof. Such application shall be made by petition in writing, addressed by such corporation to the board of supervisors of the county in which such portion of the route so desired to be changed or abandoned shall be situated, which is not within the limits of any city, or if such route, or any part thereof, shall be within the limits of a city, to the mayor of the city, for the route or portion thereof within such city. Five commissioners may be appointed pursuant to such an application as hereinafter provided, who shall be residents of the county or city and who shall have full power as herein provided. When such application is made by a corporation heretofore organized such commissioners may be appointed within thirty days after presentation of the same by such board of supervisors, or, as the case may be, by such mayor. When such application is made by a corporation hereafter to be organized under this article, such board of supervisors, or, as the case may be, such mayor, may within thirty days after presentation of such application, indorse thereon their or his approval and direction that it may be presented to the supreme court in the manner provided in section 120 of this article, and such court may thereupon appoint such commissioners. Within ten days after his appointment each commissioner so appointed shall take, subscribe and file the oath and give and file the bond prescribed by section 121 of this article; and if any one so appointed shall not comply with this requirement, he shall be deemed to have declined to accept such appointment, and to have made a vacancy which the appointing power shall fill by another appointment as herein provided. Within fifteen days after such appointments shall have been so made, the commissioners shall meet at some convenient place in such county and complete their organization as a board with appropriate officers. Such board shall have all the authority conferred by law upon commissioners appointed or authorized to be appointed under this article. Before proceeding to hear the application of the corporation, the board shall give such public notice as it may deem most proper and effective of the time and place of the hearing. Within thirty days after completing their organization such board shall hear the application

of the corporation, and all parties who may be interested therein, and within sixty days after their organization they shall determine whether any part of such route should be authorized to be abandoned, or should be changed and relocated with or without extension or extensions. If the board shall determine that no abandonment of any part of the route should be allowed, and that no change and relocation of any part thereof should be effected, and that no extension should be made, the board shall dismiss the application. If the board shall determine that an abandonment of any portion of the route should be allowed, or that any change in or extension thereof should be made, the board shall proceed to authorize and require the same upon such conditions as to the board shall seem proper, and with or without extension of the remainder of the route or of any part thereof, by fixing, determining and locating the route or routes of the extension or extensions, if any, and by directing the abandonment of the part of the route theretofore located, but by the board allowed to be abandoned, if any, and by fixing, determining and relocating the part of the route theretofore located, but by the board changed, if any; and the board shall cause to be made in duplicate a survey and map of the route as so changed and fixed, determined and located. Neither such corporation nor any assign or successor thereof shall thereafter have any authority, by reason of anything done under this article to operate or construct any railway upon any portion of the route by the board so required to be abandoned. The board shall also fix and determine the time within which the railway by it authorized and required upon any portion of the route so changed, shall be reconstructed and ready for operation. If the railway on any portion of the route not by the board changed or allowed to be abandoned, shall not have been theretofore constructed and made ready for operation, the board may extend, and fix and determine anew the time within which such railway shall be completed, but such extension of time shall not be for a longer period than that originally allowed by law for the completion thereof. If the board shall have determined that any portion of the route theretofore located should be allowed to be abandoned, with or without a change or relocation thereof or any part thereof, and with or without extension, or if the board shall have extended the time within which such railway shall be completed, the board shall make a report in writing in accordance with the determination so made, describing the portion of the route, if any there be, as so fixed, determined and located anew, and the part, if any there be, of the route allowed to be abandoned, and stating the

period of time, if any, by the board fixed and determined within which such corporation shall construct and complete the railway theretofore authorized or by it authorized to be constructed, and prescribing that a failure by the corporation, its successors or assigns, to complete it within the time, if any so limited, shall work a forfeiture to the supervisors of the county if no part of the road is within a city, or in any city, to such city, of the rights and franchises of such corporation with respect to that portion of the route so fixed, determined and located anew, and with respect to the then authorized extension or extensions, if any there be of said route, upon which a railway shall not be constructed within the time so limited; but the time, if any, unavoidably consumed by the pendency of legal proceedings, shall not be deemed a part of any period of time limited in this article, and any recital of any forfeiture of any of the rights or franchises prescribed by any commissioners heretofore appointed, to be the mayor, aldermen and commonalty of the city of New York, shall be as effectual for any and all purposes as if such forfeiture had been in terms recited to be to the board of supervisors of the county of New York. Such report shall be signed in duplicate by at least a majority of the then members of the board, and there shall be thereto annexed the survey and map as hereinabove directed, showing the line and location of each and all the routes, with or without the extension or extensions, as fixed, determined and located, and showing also the parts or part, if any there shall be, of the route or routes as theretofore fixed, determined and located, but by the board allowed to be abandoned. Within ten days after so signing such report the board shall cause the same to be filed in the office of the secretary of state, and the duplicate thereof in the office of the clerk of the county wherein such railway shall be located; and thereupon the corporation making such application, its successors or assigns, is and shall be authorized to construct, maintain and operate a steam railway for the transportation of passengers, mail and freight, upon the route or routes so fixed, determined and located, and in said report described, but the construction or operation of a railway upon any new location or selection of route is not and shall not be thus authorized except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having control of that portion of a street or highway upon which it is proposed to construct or operate such railway be first obtained, or in case the consent of such property owners cannot be obtained, that the determination of three commissioners,

to be upon application appointed by the general term of the supreme court, in the district in which such railroad is proposed to be constructed, be given after a hearing of all parties interested that such railway ought to be constructed or operated, which determination, confirmed by the court, may be taken in lieu of the consent of the property owners. Such corporation is and the successors and assigns thereof shall be authorized to maintain and operate all the railroads and the appurtenances thereof by it or by them theretofore constructed upon any portion of a route or routes which shall have been located by commissioners under this article, and to complete within the time in and by such report so extended, fixed and determined anew, and thereafter to maintain and operate the railway and the appurtenances, upon so much of the route or routes theretofore fixed, determined and located as shall not have been so authorized and required to be abandoned, and with the same rights and effect, in all respects, as if such extended period of time had been originally fixed and determined, and in the original certificate of incorporation of such corporation recited, for completing such railway and putting it in operation. The other terms and conditions in and by such certificate mentioned and prescribed, except as the same are hereinbefore modified or may be modified by the board as hereinabove authorized, shall apply to the railway herein authorized to be constructed and operated upon the route or routes as so changed, fixed, determined and located, with the same force and effect as if such route or routes, as finally so changed and located, had been in and by such article or certificates themselves prescribed. If a new location or extension of route shall be fixed and determined by commissioners who shall have been appointed by the court pursuant to this section, they shall also ascertain and determine the aggregate pecuniary damages arising from the diminution of value of the property bounded on that portion of the street or highway upon the line of such new location or extension and of each parcel of real property so bounded, and their proceedings thereupon shall be conducted in the same manner and upon the like notice as the proceedings for that purpose before the commissioners specified in section 125, and shall make to the supreme court the report required by section 133, and thereupon the same proceedings shall be had as are provided for in such last named section. Each commissioner shall be paid for his services at the rate of ten dollars per day for each day of actual services as such commissioner, and all reasonable expenses incurred by him in or about any of the matters referred to such board, to be paid by the corporation making the application so

heard and determined. No corporation shall be authorized under this section to extend, abandon or change the location of its route, or any part thereof, where the greater portion of the route or routes is or shall be in that portion of the city of New York south or west of Harlem river, or of any route or part thereof in the city of Brooklyn, or county of Kings, or to construct, extend, abandon or change the location of any railway or route for a railway over, under, through or across any street, avenues, place or lands south of One Hundred and Twenty-eighth street or west of Third avenue in that portion of the city of New York south or west of Harlem river, or where a railway might not by law be constructed, or was not by law authorized to be by a board of commissioners located on the fifth day of June, 1888. (*Thus amended by chap.* 676, *Laws* 1892.)

INCREASED DEPOSIT, WHEN AND HOW REQUIRED.

§ 137. In case any of the securities deposited in lieu of money as provided in section one hundred and twenty-five, shall in the opinion of the county treasurer or trust company with whom they may be deposited, fall below their actual value at the time of deposit, the county treasurer or trust company shall call upon such railway corporation to substitute therefor other securities equivalent at their par or market value to the amount in lieu of which the securities for which they are to be substituted were deposited, and in case such other securities shall not be furnished, the county treasurer or trust company shall call upon such corporation to furnish as a substitute, and it shall so furnish an amount of money equal to the amount in lieu of which the securities first above referred to were deposited.

TRAINS TO COME TO FULL STOP, ETC.

§ 138. All trains upon elevated railroads shall come to a full stop before any passengers shall be permitted to leave such train; and no train on such railroad shall be permitted to start until every passenger desiring to depart therefrom shall have left the train, provided such passenger has manifested his or her intention to so depart by moving toward or upon the platform of any car; nor until every passenger upon the platform or station at which such train has stopped, and desiring to board or enter such cars, shall have actually boarded or entered the same, but no person shall be permitted to enter or board any train after due notice from an authorized employe of such corporation that such train is full and that no more passengers can be then received.

GATES.

§ 139. Every car used for passengers upon elevated railroads shall have gates at the outer edge of its platforms, so constructed that they shall, when opened, be caught and held open by such catch or spring as will prevent their swinging and obstructing passengers in their egress from or ingress to such cars; and every such gate shall be kept closed while the car is in motion; and when the car has stopped and a gate has been opened, the car shall not start until such gate is again firmly closed.

PENALTY FOR VIOLATION OF THIS ARTICLE.

§ 140. Any elevated railroad corporation that shall fail or neglect to comply with or enforce the provisions of this article, shall upon the petition of any citizen to any court of record, and upon due notice to such corporation, and proof of such failure or neglect, pay to the clerk of the court wherein such petition was made, a sum not less than two hundred and fifty nor more than one thousand dollars, as such court may direct by its order. The sum so ordered to be paid shall be paid by such clerk of the court to the county treasurer, and shall be distributed by such treasurer equally among the public hospitals of the county in which the proceedings is had, at such time, as the board of supervisors or board of aldermen in any such county shall direct. Nothing in this section shall relieve elevated railroad corporations from any liability under which they may now be held by existing laws for damages to persons or property. (*This amended by chap.* 676, *Laws* 1892.)

SECTIONS TO BE PRINTED AND POSTED.

§ 141. The officers and board of directors of such railroad corporations shall cause copies of sections one hundred and thirty-eight, one hundred and thirty-nine and one hundred and forty to be printed conspicuously and posted in the depots or stations and in each car belonging to them.

EXTENSION OF TIME.

§ 142. The time within which any act is required to be done under this article may be extended by the supreme court for good cause shown, for one year, and but one extension will be granted. Any company that has heretofore constructed or is now operating an elevated railroad shall be deemed to have been duly incorporated, notwithstanding any failure on the part of commissioners to insert in its articles of association provisions complying with statutory requirements relative to such articles. (*This section was added by chap.* 676, *Laws* 1892.)

ARTICLE VI.

THE BOARD OF RAILROAD COMMISSIONERS.

SECTION 150. Appointment and term of office of railroad commissioners.
151. Suspension from office.
152. Secretary and marshal of board.
153. Additional officers; their duties.
154. Oath of office; eligibility of officers of board.
155. Principal officer and meetings of board.
156. Quorum of board.
157. General powers and duties of board.
158. Reports of railroad corporations.
159. Investigation of accidents.
160. Recommendations of board where law has been violated.
161. Recommendations of board when repairs or other changes are necessary.
162. Legal effect of recommendation and action of the board.
163. Corporation must furnish necessary information.
164. Attendance of witnesses and their fees.
165. Fees to be charged and collected by the board.
166. Annual report of board.
167. Certified copies of papers filed to be evidence.
168. Acts prohibited.
169. Salaries and expenses of members and officers of the board.
170. Total annual expense to be borne by railroads.
171. Application of this article.

APPOINTMENT AND TERM OF OFFICE OF RAILROAD COMMISSIONERS.

§ 150. There shall continue to be a board of railroad commissioners, consisting of three competent persons, one of whom shall be experienced in railroad business, appointed by the governor, by and with the advice and consent of the senate, each of whom shall hold office for the term of five years, and until his successor shall have been appointed and shall have qualified. A commissioner shall in like manner be appointed upon the expiration of the term of any commissioner; and when any vacancy shall occur in the office of any commissioner, a commissioner shall in like manner be appointed for the residue of the term. If the senate shall not be in session when the vacancy occurs, the governor shall appoint a commissioner to fill the vacancy, subject to the approval of the senate when convened.

SUSPENSION FROM OFFICE.

§ 151. Any commissioner may be suspended from office by the governor upon written charges preferred. The governor shall report such suspension and the reasons therefor to the senate at the

beginning of the next ensuing session, and if a majority of the senate shall approve the action of the governor, such commissioner shall be removed from office and his office become vacant.

SECRETARY AND MARSHAL OF BOARD.

§ 152. The board shall have a secretary and a marshal who shall be appointed by it and serve during its pleasure. The secretary shall keep a full and faithful record of the proceedings of the board, and be the custodian of its records, and file and preserve at its general office all books, maps, documents and papers intrusted to his care, and be responsible to the board for the same. Under the direction of the board he shall be its chief executive officer, shall have general charge of its office, superintend its clerical business, conduct its correspondence, be the medium of its decisions, recommendations, orders and requests, prepare for service such papers and notices as may be required of him by the commissioners, and perform such other duties as the board may prescribe, and he shall have power to administer oaths in all cases pertaining to the duties of his office. He shall have the power to designate from time to time one of the clerks appointed by the board to act as assistant secretary during his absence from the county of Albany, and the clerk so designated for the time designated shall within the county of Albany only, possess the powers conferred by this section upon the secretary of the board. (*Thus amended by chap.* 534, *Laws* 1892.)

ADDITIONAL OFFICERS; THEIR DUTIES.

§ 153. The board may also appoint, to serve during its pleasure, the following officers or any of them: An accountant, who shall be thoroughly skilled in railroad accounting, and who shall, under the direction of the board, make examinations of the books and accounts of railroad and other corporations, and supervise the quarterly and annual reports made by the railroad corporations to the board, and collect and compile railroad statistics, and perform such other duties as the board may prescribe. An inspector, who shall be a civil engineer, skilled in railroad affairs, who shall make such inspections of railroads and other matters relating thereto, as directed by the board, and report to it. Such additional clerical force as may be necessary for the transaction of its business. The board may also employ engineers, accountants and other experts whose services they may deem to be of temporary importance in conducting any investigation authorized by law. (*Thus amended by chap.* 534, *Laws* 1892.)

OATH OF OFFICE; ELIGIBILITY OF OFFICERS OF BOARD.

§ 154. Each commissioner, and every person appointed to office by the board, shall, before entering upon the duties of his office, take and subscribe the constitutional oath of office. No person shall be appointed to or hold the office of commissioner or be appointed by the board to, or hold any office, place or position under it who holds any official relation to any railroad corporation, or owns stock or bonds therein, or who is in any manner pecuniarily interested in any firm or corporation having business relations with any such corporation.

PRINCIPAL OFFICE AND MEETINGS OF BOARD.

§ 155. The principal office of the board shall be at the city of Albany, in rooms designated by the capitol commissioners, and it may have a branch office at the city of New York, and one at the city of Buffalo; and the board, or a quorum thereof, shall meet at least once a month during the year at the office in Albany. The board shall have an official seal, to be prepared by the secretary of state in accordance with law, and its offices shall be supplied with necessary postage, stationery, office furniture and appliances to be paid for as other expenses authorized by this article, and it shall have prepared for it by the state the necessary books, maps and statistics, incidentally necessary for the discharge of its duties.

QUORUM OF BOARD.

§ 156. Two of the commissioners shall constitute a quorum for the transaction of any business, or the performance of any duty of the board and may hold meetings thereof at any time or place within the state. All examinations or investigations made by the board may be held and taken by and before any one of the commissioners or the secretary of the board, by the order of the board, and the proceedings and decisions of such single commissioner or secretary, shall be deemed to be the proceedings and decisions of the board, when approved and confirmed by it. (*Thus amended by chap.* 534, *Laws* 1892.)

GENERAL POWERS AND DUTIES OF BOARD.

§ 157. The board shall have power to administer oaths in all matters relating to its duties, so far as necessary to enable it to discharge such duties, shall have general supervision of all railroads and shall examine the same and keep informed as to their condition, and the manner in which they are operated for the security and ac-

commodation of the public and their compliance with the provisions of their charters and of law. The commissioners or either of them in the performance of their official duties may enter and remain during business hours in the cars, offices and depots, and upon the railroads of any railroad corporation within the state, or doing business therein; and may examine the books and affairs of any such corporation and compel the production of books and papers or copies thereof, and the board may cause to be subpœnaed witnesses, and if a person duly subpœnaed fails to obey such subpœna without reasonable cause, or shall without such cause refuse to be examined, or to answer a legal or pertinent question, or to produce a book or paper, which he is directed by subpœna to bring, or to subscribe his deposition after it has been correctly reduced to writing, the board may take such proceedings as are authorized by the Code of Civil Procedure upon the like failure or refusal of a witness subpœnaed to attend the trial of a civil action before a court of record or a referee appointed by such court. The board shall also take testimony upon, and have a hearing for and against any proposed change of the law relating to any railroad or of the general railroad law, if requested to do so by the legislature or by the committee on railroads of the senate or the assembly, or by the governor, and may take such testimony and have such a hearing when requested to do so by any railroad corporation, or incorporated organization representing agricultural or commercial interests in the state, and shall report their conclusions in writing to the legislature, committee, governor, corporation or organization making such request; and shall recommend and draft such bills as will in its judgment protect the people's interest in and upon the railroads of this state.

REPORTS OF RAILROAD CORPORATIONS.

§ 158. The board shall prescribe the form of the report required by the railroad law to be made by railroad corporations, and may from time to time make such changes and additions in such form, giving to the corporation six months' notice before the expirations of any fiscal year, of any changes or additions which would require any alteration in the method or form of keeping their accounts, and on or before September fifteenth in each year, shall furnish a blank form for such report. When the report of any corporation is defective, or believed to be erroneous, the board shall notify the corporation to amend the same within thirty days. The originals of the reports, subscribed and sworn to as prescribed by law, shall be preserved in the office of the board.

INVESTIGATION OF ACCIDENTS.

§ 159. The board shall investigate the cause of any accident on any railroad resulting in loss of life or injury to persons, which in their judgment shall require investigation and include the result thereof in their annual report to the legislature. Before making any such examination or investigation, or any investigation or examination under this article, reasonable notice shall be given to the corporation, person or persons conducting and managing such railroad of the time and place of commencing the same. The general superintendent or manager of every railroad shall inform the board of any such accident immediately after its occurrence. If the examination of the books and affairs of the corporation, or if witnesses in its employ, shall be necessary in the course of any examination or investigation into its affairs, the board, or a commissioner thereof, shall sit for such purpose in the city or town of this state where the principal business office of the corporation is situated if requested so to do by the corporation; but the board may require copies of books and papers, or abstracts thereof, to be sent to them to any part of this state.

RECOMMENDATIONS OF BOARD, WHERE LAW HAS BEEN VIOLATED.

§ 160. If, in the judgment of the board, it shall appear that any railroad corporation has violated any constitutional provision or law, or neglects in any respect to comply with the terms of the law by which it was created, or unjustly discriminates in its charges for services, or usurps any authority not granted by law, or refuses to comply with the provisions of any law, or with any recommendation of the board, it shall give notice thereof in writing to the corporation, and if the violation, neglect or refusal is continued after such notice, the board may forthwith present the matter to the attorney-general, who shall take such proceedings thereon as may be necessary for the protection of the public interests.

RECOMMENDATIONS OF BOARD, WHEN REPAIRS OR OTHER CHANGES ARE NECESSARY.

§ 161. If, in the judgment of the board, after a careful personal examination of the same, it shall appear that repairs are necessary upon any railroad in the state, or that any addition to the rolling stock, or any addition to or change of the station or station-houses, or that additional terminal facilities shall be afforded, or that any change of the rates of fare for transporting freight or passengers or in the mode of operating the road or conducting its business, is reasonable

and expedient in order to promote the security, convenience and accommodation of the public, the board shall give notice and information in writing to the corporation of the improvements and changes which they deem to be proper, and shall give such corporation an opportunity for a full hearing thereof, and if the corporation refuses or neglects to make such repairs, improvements and changes, within a reasonable time after such information and hearing, and fails to satisfy the board that no action is required to be taken by it, the board shall fix the time within which the same shall be made, which time it may extend. It shall be the duty of the corporation, person or persons owning or operating the railroad to comply with such decisions and recommendations of the board as are just and reasonable. If it fails to do so the board shall present the facts in the case to the attorney-general for his consideration and action, and shall also report them in its annual or in a special report to the legislature.

LEGAL EFFECT OF RECOMMENDATIONS AND ACTION OF THE BOARD.

§ 162. No examination, request or advice of the board, nor any investigation or report made by it, shall have the effect to impair in any manner or degree the legal rights, duties or obligations of any railroad corporation, or its legal liabilities for the consequence of its acts, or of the neglect or mismanagement of any of its agents or employes. The supreme court at special term shall have power in its discretion, in all cases of decisions and recommendations by the board which are just and reasonable to compel compliance therewith by mandamus, subject to appeal to the general term and the court of appeals, and upon such appeal, the general term and the court of appeals may review and reverse upon the facts as well as the law. (*Thus amended by chap.* 676, *Laws* 1892.)

CORPORATIONS MUST FURNISH NECESSARY INFORMATION

§ 163. Every railroad corporation shall, on request, furnish the board any necessary information required by them concerning the rates of fare for transporting freight and passengers upon its road and other roads with which its business is connected, and the condition, management, and operation of its road, and shall, on request, furnish to the board copies of all contracts and agreements, leases or other engagements entered into by it with any person or corporation. The commissioners shall not give publicity to such information, contracts, agreements, leases or other engagements, if,

in their judgment, the public interests do not require it, or the welfare and prosperity of railroad corporations of the state might be thereby injuriously affected.

ATTENDANCE OF WITNESSES AND THEIR FEES.

§ 164. All subpœnas shall be issued by the president of the board, or by any two members thereof, and may be served by any person of full age authorized by the board to serve the same. The fees of witnesses before the board shall be two dollars for each day's attendance, and five cents for every mile of travel by the nearest generally traveled route in going to and returning from the place where the attendance of the witness is required, and the fees shall be audited and paid by the comptroller on the certificate of the secretary of the commission.

FEES TO BE CHARGED AND COLLECTED BY THE BOARD.

§ 165. The board shall charge and collect the following fees: For copies of papers and records not required to be certified, or otherwise authenticated by the board, ten cents for each folio of one hundred words; for certified copies of official documents filed in its office, fifteen cents for each folio, and one dollar for every certificate under seal affixed thereto; for each certified copy of the quarterly report made by a railroad corporation to the board, fifty cents; for each certified copy of the annual report of the board, one dollar and fifty cents; for certified copies of evidence and proceedings before the board, fifteen cents for each folio. No fees shall be charged or collected for copies of papers, records or official documents, furnished to public officers for use in their official capacity, or for the annual reports of the board in the ordinary course of distribution. All fees charged and collected by the board belong to the people of the state, and shall be paid quarterly, accompanied with a detailed statement thereof into the treasury of the state to the credit of the general fund.

ANNUAL REPORT OF BOARD.

§ 166. The board shall make an annual report on or before the second Monday in January in each year, which shall contain:

1. A record of their meetings and an abstract of their proceedings during the preceding year.

2. The result of any examination or investigation conducted by them.

3. Such statements, facts and explanations as will disclose the

actual workings of the system of railroad transportation in its bearing upon the business and prosperity of the state, and such suggestions as to the general railroad policy of the state, of the amendment of its laws, or the condition, affairs or conduct of any railroad corporation, as may seem to them appropriate.

4. Drafts of all bills submitted by them to the legislature and the reasons therefor.

5. Such tables and abstracts of all the reports of all the railroad corporations as they may deem expedient.

6. A statement in detail of the traveling expenses and disbursements of the commissioners, their clerks, marshal and experts.

Five hundred copies of the report with the reports of the railroad corporations of the state, in addition to the regular number prescribed by law, shall be printed as a public document of the state, bound in cloth for the use of the commissioners, and to be distributed by them in their discretion to railroad corporations and other persons interested therein.

CERTIFIED COPIES OF PAPERS FILED TO BE EVIDENCE.

§ 167. Copies of all official documents filed or deposited according to law in the office of the board, certified by a member of the board or the secretary thereof to be true copies of the originals under the official seal of the board, shall be evidence in like manner as the originals.

ACTS PROHIBITED.

§ 168. No railroad commissioners shall, directly or indirectly, solicit or request from, or recommend to any railroad corporation, or any officer, attorney or agent thereof, the appointment of any person to any place or position, nor shall any railroad corporation, its attorney or agent, offer any place, appointment or position or other consideration to such commissioners, or either of them, nor to any clerk or employe of the commissioners or of the board; neither shall the commissioners or either of them, nor their secretary, clerks, agents, employes or experts, accept, receive or request any pass from any railroad in this state, for themselves or for any other person, or any present, gift or gratuity of any kind from any railroad corporation; and the request or acceptance by them, or either of them, of any such place or position, pass, presents, gifts or other gratuity shall work a forfeiture of the office of the commissioner or commissioners, secretary, clerk or clerks, agent or agents, employe or employes, expert or experts, requesting or accepting the same.

SALARIES AND EXPENSES OF MEMBERS AND OFFICERS OF THE BOARD.

§ 169. The annual salary of each commissioner shall be eight thousand dollars; of the secretary, six thousand dollars; of the marshal, fifteen hundred dollars; of the accountant and of the inspector such sum as the board may fix, not exceeding three thousand dollars each; of the clerical force such sums respectively as the board may fix. In the discharge of their official duties, the commissioners, their officers, clerks and all experts and agents whose services are deemed temporarily of importance, shall be transported over the railroads in this state free of charge upon passes signed by the secretary of state, and the commissioners shall have reimbursed to them the necessary traveling expenses and disbursements of themselves, their officers, clerks and experts, not exceeding in the aggregate five hundred dollars per month. All salaries and disbursements shall be audited and allowed by the comptroller, and paid monthly by the state treasurer upon the order of the comptroller out of the funds provided therefor. (*Thus amended by chap.* 534, *Laws* 1892.)

TOTAL ANNUAL EXPENSE TO BE BORNE BY RAILROADS.

§ 170. The total annual expense of the board authorized by law, excepting only rent of offices and the cost of printing and binding the annual reports of the board as provided by law, shall not exceed fifty thousand dollars; and shall be borne by the several corporations owning or operating railroads according to their means, to be apportioned by the comptroller who, on or before July first in each year, shall assess upon each of such corporations its proportion of such expenses, one-half in proportion to its net income for the fiscal year next preceding that in which the assessment is made, and one-half in proportion to the length of its main road and branches, except that each corporation whose line of road lies partly within and partly without the state, shall in respect of its net income be assessed on a part bearing the same proportion to its whole net income that the line of its road within the state bears to the whole length of road, and in respect of its main road and branches shall be assessed only on that part which lies within the state. Such assessment shall be collected in the manner provided by law for the collection of taxes upon corporations. (*Thus amended by chap.* 534, *Laws* 1892.)

APPLICATION OF THIS ARTICLE.

§ 171. The provisions of this article shall apply to all railroads within the state, and the corporations, receivers, trustees, directors

or others, owning or operating the same or any of them, and to all sleeping and drawing room car corporations, and to all other associations, partnerships or corporations engaged in transporting passengers or freight upon any such railroad as lessee or otherwise. (*Sections* 180 *to* 183, *both inclusive, were repealed by chap.* 676, *Laws* 1892.)

§ 172. The railroad commissioners may in their discretion act as judges to award prizes which may be offered by any responsible person for improvements in machinery or appliances for operating railroads. (*This section added by chap.* 452, *Laws* 1894.)

Sections of the Constitution of the State of New York Relating to Railroads.

ARTICLE I.—SECTION 18. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

ARTICLE III.—SECTION 18. The legislature shall not pass a private or local bill in any of the following cases:

* * * * * * * *

Granting to any corporation, association or individual the right to lay down railroad tracks.

Granting to any private corporation, association or individual any exclusive privilege, immunity or franchise whatever.

* * * * * * * *

The legislature shall pass general laws providing for the cases enumerated in this section, and for all other cases which in its judgment may be provided for by general laws. But no law shall authorize the construction or operation of a street railroad except upon the condition that the consent of the owners of one-half in value of the property bounded on, and the consent also of the local authorities having the control of, that portion of a street or highway upon which it is proposed to construct or operate such railroad be first obtained, or in case the consent of such property owners cannot be obtained, the appellate division of the supreme court, in the department in which it is proposed to be constructed, may, upon application, appoint three commissioners who shall determine, after a hearing of all parties interested, whether such railroad ought to be constructed or operated, and their determination, confirmed by the court, may be taken in lieu of the consent of the property owners.

ARTICLE VII.—SECTION 7. The lands of the state, now owned or hereafter acquired, constituting the forest preserve as now fixed by law, shall be forever kept as wild forest lands. They shall not be leased, sold or exchanged, or be taken by any cor-

poration, public or private, nor shall the timber thereon be sold, removed or destroyed.

ARTICLE VIII.—SECTION 1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where, in the judgment of the legislature, the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section may be altered from time to time or repealed.

§ 2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

§ 3. The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

ARTICLE XIII.—SECTION 5. No public officer, or person elected or appointed to a public office, under the laws of this state, shall directly, or indirectly ask, demand, accept, receive or consent to receive for his own use or benefit, or for the use or benefit of another, any free pass, free transportation, franking privilege or discrimination in passenger, telegraph or telephone rates, from any person or corporation, or make use of the same himself or in conjunction with another. A person who violates any provision of this section, shall be deemed guilty of a misdemeanor, and shall forfeit his office at the suit of the attorney-general. Any corporation, or officer or agent thereof, who shall offer or promise to a public officer, or person elected or appointed to a public office, any such free pass, free transportation, franking privilege or discrimination, shall also be deemed guilty of a misdemeanor and liable to punishment except as herein provided. No person, or officer or agent of a corporation giving any such free pass, free transportation, franking privilege or discrimination hereby prohibited, shall be privileged from testifying in relation thereto, and he shall not be liable to civil or criminal prosecution therefor if he shall testify to the giving of the same.

GENERAL ACTS RELATING TO RAILROADS

ENACTED

PRIOR TO MAY 1ST, 1891, AND NOT IN TERMS REPEALED BY ANY OF THE PRECEDING LAWS, ALSO ACTS PASSED SINCE 1892.

CHAP. 300, LAWS OF 1835.

AN ACT to enlarge the powers of commissioners of highways.

LAWFUL FOR COMMISSIONERS OF HIGHWAYS, HAVING SUPERVISION THEREOF, TO GIVE WRITTEN CONSENT FOR CONSTRUCTION ACROSS ROAD OR HIGHWAY.

SECTION 1. Whenever any association or individual shall construct a railroad upon land purchased for that purpose, or a route which shall cross any road or other public highway, it shall be lawful for the commissioners of highways, having the supervision thereof, to give a written consent that such railroad may be constructed across, or on such road or other public highway; and thereafter such association or individual shall be authorized to construct and use such railroad across or on such roads or other highways as the commissioners aforesaid shall have permitted; but any public highway thus intersected or crossed by a railroad shall be so restored to its former state as not to have impaired its usefulness.

CHAP. 300, LAWS OF 1837.

AN ACT relative to unclaimed trunks and baggage.

DESCRIPTION OF SAME TO BE ENTERED IN A BOOK.

SECTION 1: The proprietor or proprietors of the several lines of stages, and the proprietors of the several canal boat lines, and the proprietors of the several steamboats, and the several incorporated railroad companies, and the keepers of the several inns and taverns within this state, who shall have any unclaimed trunks, boxes or baggage within his, their, or either of their custody, shall immediately enter the time the same was left, with a proper description thereof, in a book to be by them provided and kept for that purpose. In case the name and residence of the owner shall be ascertained, it shall be the duty of such person who shall have any such property as above specified, to immediately notify the owner thereof by mail.

DESCRIPTION OF PROPERTY TO BE MADE AND PUBLISHED IN STATE PAPER.

§ 2. In case there shall not be any information obtained as to the owner, it shall be the duty of the person having the possession thereof, to make out a correct written description of all such property as shall have been unclaimed for thirty days, stating the time the same came into his possession, and forward said description to the editor of the state paper, whose duty it shall be on the first Mondays of July, October, January and April, in each year, to publish the same in the state paper once a week for three weeks successively.

IF NOT CLAIMED FOR SIXTY DAYS AFTER SAID PUBLICATION, TO BE OPENED AND EXAMINED AND AN INVENTORY MADE; WHEN TO BE SOLD AT PUBLIC AUCTION, UPON WHAT NOTICE; DISPOSITION OF PROCEEDS.

§ 3. In case the said property shall remain unclaimed for sixty days after the said publication, it shall be the duty of the person or company having possession thereof, to apply to a magistrate of the town or city in which said property is retained, in whose presence and under whose direction said property shall he opened and examined, and an inventory thereof taken by said magistrate; and if the name and residence of the owner is ascertained by such examination, it shall be the duty of the magistrate forthwith to direct a notice thereof to such owner, by mail; and if said property shall remain unclaimed for three months after such examinations, it shall be the further duty of the person or company having possession thereof to apply to a magistrate as aforesaid, and if said magistrate shall deem such property of sufficient value, he shall cause the same to be sold at public auction, giving six days' previous notice of the time and place of such sale; and from the proceeds of such sale he shall pay the charges and expenses legally incurred in respect to said property, or a ratable proportion thereof to each claimant, if insufficient for the payment of the whole amount; and the balance of the proceeds of such sale, if any, the said magistrate shall immediately pay to the overseers of the poor of said town or city, for the use of the poor thereof, and the said overseers shall make an entry of such amount, and the time of receiving the same, upon their official records, and it shall be subject, at any time within seven years thereafter, to be reclaimed by, and refunded to, the owner of such property, his heirs or assigns, on satisfactory proof of such ownership.

EXPENSE; TO BE A LIEN ON PROPERTY.

§ 4. The person making the entry of unclaimed property as above specified, shall be entitled to twelve and a half cents for each trunk, box,

bale, package or bundle so entered, and shall have a lien on the property so entered until payment shall be made; and in case any additional expense shall be incurred for printing, the lien shall continue until payment shall be made for such additional expense.

PENALTY.

§ 5. In case any person shall neglect or refuse to comply with the provisions of this act, he shall forfeit the sum of five dollars for each and every trunk, box or bundle of baggage so neglected as above specified, to the benefit of any person who shall sue for the same in his own name, in an action of debt in any court having cognizance thereof.

CHAP. 133, LAWS OF 1843.

AN ACT authorizing the incorporation of rural cemetery associations.

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NO STREET, ROAD, AVENUE OR THOROUGHFARE TO BE LAID OUT THROUGH A CEMETERY.

§ 10. The cemetery lands and property of any association formed pursuant to this act, and any property held in trust by it for any of the purposes mentioned in section nine of this act, shall be exempt from all public taxes, rates and assessment, and shall not be liable to be sold on execution, or be applied in payment of debts from any individual proprietor. But the proprietors of lots or plots in such cemeteries, their heirs or devisees, may hold the same exempt therefrom, so long as the same shall remain dedicated to the purposes of a cemetery, and during that time no street, road, avenue or thoroughfare shall be laid out through such cemetery, or any part of the lands held by such association for the purposes aforesaid, without the consent of the trustees of such association, except by special permission of the Legislature of the State.

CHAP. 62, LAWS OF 1857.

AN ACT to regulate the construction of roads and streets across railroad tracks.

LAYING OUT STREETS OR HIGHWAYS ACROSS RAILROAD TRACKS.

SECTION 1. It shall be lawful for the authorities of any city, village or town in this state, who are by law empowered to lay out streets and highways, to lay out any street or highway across the track of any railroad now laid or which may hereafter be laid, without compensation to

the corporation owning such railroad; but no such street or highway shall be actually opened for use until thirty days after notice of such laying out has been served personally upon the president, vice-president, treasurer or a director of such corporation.

RAILROAD CORPORATIONS TO CAUSE STREET LAID OUT ACROSS THEIR TRACK TO BE TAKEN AT MOST CONVENIENT PLACE FOR PUBLIC TRAVEL.

§ 2. It shall be the duty of any railroad corporation, across whose track a street or highway shall be laid out as aforesaid, immediately after the service of said notice, to cause the said street or highway to be taken across their track, as shall be most convenient and useful for public travel, and to cause all necessary embankments, excavations and other work to be done on their road for that purpose; and all the provisions of the act, passed April 2, 1850, in relation to crossing streets and highways, already laid out, by railroads, and in relation to cattle-guards and other securities and facilities for crossing such roads, shall apply to streets and highways hereafter laid out.

PENALTY FOR NEGLECT OR REFUSAL.

§ 3. If any railroad corporation shall neglect or refuse, for thirty days after the service of the notice aforesaid, to cause the necessary work to be done and completed, and improvements made on such streets or highways across their road, they shall forfeit and pay the sum of twenty dollars for every subsequent day's neglect or refusal, to be recovered by the officers laying out such street or highway, to be expended on the same; but the time for doing said work may be extended, not to exceed thirty days, by the county judge of the county in which such street or highway, or any part thereof, may be situated, if, in his opinion, the said work cannot be performed within the time limited by this act.

CHAP. 228, LAWS OF 1857.

AN ACT in relation to the payment of fare upon the New York Central Railroad.

SECTION 1. The New York Central Railroad Company, at every station on its road where a ticket office is now or may hereafter be established, shall keep the same open for the sale of tickets at least one hour prior to the departure of each passenger from such station; but nothing herein contained shall require said company to keep such office open between nine o'clock P. M. and five o'clock A. M., except at Albany, Schenectady, Utica, Syracuse, Rochester, Buffalo and Suspension Bridge, which shall be kept open as hereinbefore required between five o'clock A. M. and eleven o'clock P. M.

§ 2. If any person shall at any station, where a ticket office is established and open, enter the cars of said company, as a passenger thereon, without having first purchased a ticket for that purpose, it shall be lawful for the said company to demand and receive from such person a sum not exceeding five cents in addition to the usual rate of fare for the distance such person may desire to be transported.

CHAP. 779, LAWS OF 1868.

AN ACT in relation to mortgages executed by railroad companies.

CHATTEL MORTGAGES.

SECTION 1. It shall not be necessary to file or refile as a chattel mortgage any mortgage creating a lien upon real and personal property which has been or shall hereafter be executed by any corporation, as security for the payment of bonds issued by such corporation, and which has been or shall be recorded as a mortgage of real estate in each county in this state in which the real estate of said corporation included in said mortgage is located. (*Thus amended by chap.* 529, *Laws of* 1895.)

CHAP. 529, LAWS OF 1870.

AN ACT in relation to mechanics' liens.

PROVISIONS OF LIEN LAW EXTENDED TO RAILROAD BRIDGES AND TRESTLE WORK.

SECTION 1. The provisions of the law relating to mechanics' lien heretofore passed shall apply to bridges and trestle work erected for railroads and materials furnished therefor, and labor performed in constructing said bridges, trestle work and other structures connected therewith; and the time within which said liens may be filed shall be extended to ninety days from the time when the last work shall have been performed on said bridges, trestle work and structures connected therewith, or the time from which said materials shall have been delivered. This act shall apply to all uncompleted work commenced prior to the passage of this act.

CHAP. 84, LAWS OF 1871.

AN ACT to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only.

RAILROAD AND OTHER CORPORATE BONDS; HOW MADE NON-NEGOTIABLE.

SECTION 1. It shall be lawful for any person or persons owning and holding any railroad mortgage bonds, or other corporate bonds (for which

a registry is not by law provided), heretofore issued, or which may be hereafter issued, and made payable in this state, and which are made payable to bearer, to render the same non-negotiable by the owner and holder indorsing upon the same and subscribing a statement that said bond is the property of such owner. And thereupon the principal sum of money mentioned in said bond shall only be payable to such owner or his legal representatives or assigns.

TRANSFERS; HOW MADE.

§ 2. The bonds described and referred to in the first section of this act may be transferred by an indorsement in blank, giving name and residence of assignor, or they may be transferred by an indorsement payable to bearer or to the order of the purchaser (naming him), subscribed by the assignor, giving name and place of residence.

CHAP. 590, LAWS OF 1872.

AN ACT to regulate processions and parades in the cities of the state of New York.

NO PROCESSION OR PARADE TO INTERFERE WITH FREE PASSAGE OF CARS UPON STREET RAILWAYS.

SECTION 1. No procession or parade shall use any street upon the surface of which is a railway track or tracks by marching upon the said track or tracks, and a free passage of cars upon railway tracks shall not be interfered with by the formation, halt or march of any such procession or parade, or of the persons composing it. Whenever any procession shall find it necessary to march across a railway track, the portion of said procession which is so marching is likely to stop the passage of any car or cars upon said track, shall come to a halt in order to permit said car to proceed.

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PENALTY.

§ 4. Every person willfully violating any provision of this act shall be guilty of a misdemeanor, punishable with a fine not exceeding twenty dollars, or imprisonment not exceeding ten days, or both at the discretion of the court.

CHAP. 595, LAWS OF 1873.

AN ACT relative to certain negotiable corporate bonds and obligations.

HOW OWNER MAY MAKE BONDS NON-NEGOTIABLE.

SECTION 1. The owner or holder of any corporate or municipal bond or obligation (except such as are designed to circulate as currency) pay-

able to bearer, heretofore issued, or which may hereafter be issued and payable in this state, but not registered in pursuance of any law thereof, may make the same non-negotiable (except as provided in the second section of this act), by subscribing his name to a statement indorsed thereon that such bond or obligation is his property; and thereupon the principal sum therein mentioned shall be payable only to such owner or holder, or his legal representatives or assigns.

HOW TRANSFERRED AFTER SUCH INDORSEMENT.

§ 2. The bonds and obligations mentioned in the last section, after having been indorsed as therein provided, may be transferred by an indorsement, in blank, or payable to bearer, or to order, with the addition of the assignor's place of residence.

THE PROVISIONS OF THIS ACT APPLY TO INTEREST COUPONS.

§ 3. The provisions of this act shall apply to all interest coupons accompanying any corporate or municipal bond or obligation payable in this state.

REPEAL.

§ 4. So much of chapter eighty-four of the Laws of one thousand eight hundred and seventy-one, entitled "An act to authorize the owners and holders of certain railroad mortgage bonds, made payable to bearer, to render the same payable to order only," as is inconsistent with this act is hereby repealed.

CHAP. 392, LAWS OF 1875.

AN ACT for the better security of railroad employes for labor performed.

LIEN FOR LABOR UPON ROLLING STOCK, ETC.

SECTION 1. Any person who shall hereafter perform any labor for a railroad corporation shall, on filing with the county clerk of any county in which such railroad corporation is situated, or through which the road of such corporation passes, the notice prescribed by the second section of this act, have a lien for the value of such labor upon such railroad track, rolling stock, and appurtenances, and upon the land upon which such railroad track and appurtenances are situated, to the extent of the right, title and interest of such railroad corporation in the property existing at the time of filing the said notice.

WHEN NOTICE TO BE FILED; TO BE ENTERED BY COUNTY CLERK ON "LIEN DOCKET"; FEE.

§ 2. Within thirty days after the performance and completion of such labor, such person shall file a notice in writing with the county clerk of the county where the property is located, specifying the amount of claim, and the corporation against whom the claim is made. The county clerk shall enter the particulars of such notice in a book to be kept in his office, to be called the "lien docket," with the name of claimant, amount claimed, the name of such corporation against which such claim is made, and the date of the filing of the notice, hour and minute. A fee of ten cents shall be paid to said clerk on filing said lien, and said notice when so filed, shall thereafter operate as an incumbrance upon said property.

VALUE OF LABOR TO BE PROVED ON TRIAL.

§ 3. Any person performing labor, in availing himself of the provisions of this act, shall, upon the trial, or at the assessment of damages, produce evidence to establish the value of such labor, and that the same was performed for such railroad corporation.

LIEN, HOW ENFORCED.

§ 4. Any laborer performing any work, or assignee thereof, may, after such labor is performed, and the services of the notice required by the first section of this act, bring an action in any of the courts of the county in which said property is situated, to enforce said lien, requiring such railroad corporation to appear, by attorney, within thirty days after such service and answer the same, or, in default thereof, the claimant may take judgment for the amount of claim and costs.

LIEN TO CONTINUE ONE YEAR.

§ 5. Every lien created under the provisions of this act, shall continue until the expiration of one year, unless sooner discharged by the court or some legal act of the claimant in the proceedings; but when a judgment is entered therein, and docketed with the county clerk within said year, it shall be a lien upon the real property of the railroad corporation against whom it is obtained to the extent that other judgments are now made a lien thereon.

PRIORITY OF LIENS.

§ 6. The liens created and established by virtue of the provisions of this act shall be paid and settled according to the priority of the notice filed with the county clerk, as directed by the second section hereof.

LIENS, HOW DISCHARGED.

§ 7. All liens created by this act may be discharged as follows:

1. By filing with the county clerk a certificate of the claimant, or his successors in interest, acknowledged or proved in the same manner as a conveyance of real estate, stating that the lien has been paid or discharged; or

2. By depositing with the court or clerk of the court a sum of money equal to double the amount claimed, which money shall be thereupon held subject to the determination of the lien; or

3. By an entry of the county clerk made in the book of liens, that the proceedings on the part of the claimant have been dismissed by the court in which it is brought, or a judgment rendered against the said claimant; or

4. By an affidavit of the service of a notice from such railroad corporation, or its attorney, to the claimant, requiring such claimant to commence an action for the enforcement of said lien within twenty days after service of said notice, and the failure of said claimant to commence an action as aforesaid.

PERSONAL LIABILITY OF STOCKHOLDERS; NOTICE; TIME FOR COMMENCING ACTION.

§ 8. Each and all stockholders of such corporation shall be jointly and severally liable for the debts due or owing to any of its laborers or servants, other than contractors, for personal service for ninety days' service, or less than ninety days' service, performed for such corporation, but shall not be liable to an action therefor, before an execution shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such execution shall be the amount recoverable with costs against such stockholders; before such laborer or servant shall charge such stockholders for such ninety days' service, or less than ninety days' service, he shall give notice in writing, within twenty days after the performance of such service, that he intends to so hold him liable, and shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in such corporation in ratable proportion to the amount of the stock they shall respectively hold with himself.

CHAP. 508, LAWS OF 1875.

AN ACT to amend section third of title four of chapter eight of part third of the revised statutes.

§ 3. In suits brought by or against a corporation created by or under any statute of this state, it shall not be necessary to prove on the trial of

the cause the existence of such corporation, unless the defendant shall have alleged in the answer in the action that the plaintiffs or defendants, as the case may be, are not a corporation, nor unless the allegations in the answer that the defendant is not a corporation be verified under oath in the manner provided by law for the verification of pleadings in actions in courts of record.

CHAP. 134, LAWS OF 1878.

AN ACT in relation to infectious and contagious diseases of animals.

(So much of section two of said act as is applicable to railways.)

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To order all or any animals coming into the state to be detained at any place or places for the purpose of inspection and examination.

To prescribe regulations for the destruction of animals affected with infectious or contagious diseases, and for the proper disposition of their hides and carcasses, and of all objects which might convey infection or contagion, provided that no animal shall be destroyed unless first examined by a medical or veterinary practitioner in the employ of the governor as aforesaid.

To prescribe regulations for the disinfection of all premises, buildings, boats and railway cars, and of all objects from or by which infection or contagion may take place or be conveyed.

To alter and modify from time to time, as he may deem expedient, the terms of all such proclamations, orders and regulations, and to cancel or withdraw the same at any time. (*As am'd by chap.* 286, *Laws* 1888.)

CHAP. 317, LAWS OF 1881.

AN ACT to authorize a change in certain cases, of the time for holding elections in railroad companies.

COMPANIES MAY CHANGE TIME FOR HOLDING ELECTIONS.

SECTION 1. Any railroad company, the time for the annual election of directors in which is now fixed for any day in the month of June, may, by a vote of a majority of the stock, either in person or by proxy thereof to that effect, and filing in the office of the secretary of state a copy of such proceedings, certified by the secretary of the company under its corporate seal, change the time for holding such annual election to any day in the month of April; provided, however, that the first election held under such resolution shall be held in the month of April which shall precede the time at which such election would otherwise have been held.

CHAP. 452, LAWS OF 1881.

AN ACT to authorize corporations owning canals to construct and operate railroads alongside of or in lieu thereof.

CORPORATION OWNING CANAL MAY CONSTRUCT RAILROAD.

SECTION 1. It shall be lawful for any corporation of this state owning and operating a canal to construct and operate along or in lieu of such canal a railroad, and the exercise of the authority hereby conferred shall not be deemed to forfeit or impair its corporate rights under its charter or act of incorporation.

CORPORATE POWERS.

§ 2. Such company, in the construction and maintenance of any such railroad under the authority of this act, shall have, possess and enjoy all the powers and privileges contained in an act entitled "An act to authorize the formation of railroad corporations and to regulate the same," passed April 2, 1850, and the several acts amending the same, and be subject to all the duties, liabilities and provisions so far as relates to any powers or privileges by this act upon said company conferred and hereafter exercised.

NOT AUTHORIZED TO CONSTRUCT RAILROAD IN ANY OTHER LOCALITY.

§ 3. Nothing in this act contained shall authorize the construction of any railroad except upon or along such canal owned and operated by any such company, and not in any other locality.

CHAP. 292, LAWS OF 1882.

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OILS THAT IGNITE BELOW 300 DEGREES FAHRENHEIT NOT TO BE BURNED IN CARS.

§ 2. No oil or burning fluid, whether composed wholly or in part of coal oil and petroleum or their products, or other substance or material, which will ignite at a temperature below three hundred degrees by the Fahrenheit thermometer, shall be burned in lamp, vessel, or other stationary fixture of any kind, or carried as freight, in any passenger or baggage car or passenger boat moved by steam power in this state, or in any stage or street car drawn by horses. Exceptions as regards the transportation of coal oil, petroleum and its products, are hereby made when the same is securely packed in barrels or metallic packages, and permission is hereby granted for its carriage in passenger boats moved by steam power when there are no other public means of transportation. Any violation

of this act shall be deemed a misdemeanor and subject the offending party or parties to a penalty not exceeding three hundred dollars, or imprisonment not exceeding six months, at the discretion of the court.

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§ 5. It shall be the duty of all district attorneys of the counties in this state to represent and prosecute in behalf of the people, within their respective counties, all cases of offenses arising under the provisions of this act.

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CHAP. 364, LAWS OF 1882.

AN ACT to regulate the interchange of freight and passengers between the Central Vermont railroad and the Ogdensburgh and Lake Champlain railroad at Rouse's Point.

FREIGHT TO BE EXCHANGED IN SAME CARS IN WHICH SAME IS BILLED FOR TRANSPORTATION.

SECTION 1. All freight billed or consigned from points in this state, or from points on connecting railways to points reached by the Central Vermont railroad, and lines leased and managed by said Central Vermont railroad, and Ogdensburgh and Lake Champlain railroad and their connections, shall be exchanged in the same cars in which said freight is billed for transportation to its destination, and no discrimination shall be made by either of the companies named in this act, on account of said cars belonging to different corporations or carrying through all rail or other freight. Provided said cars shall be in the condition required under the rules and regulations usual and in force among connecting railroads.

CARS OFFERED BY ONE COMPANY TO ANOTHER TO BE TAKEN IN THE USUAL MANNER.

§ 2. All passenger, sleeping, baggage or other cars offered by one company to the other shall be taken in the same manner as is usual in the interchange of through passenger cars by connecting railroads.

NO ADDITIONAL CHARGE TO BE MADE.

§ 3. No additional charge shall be made by reason of one company taking from the other for transportation to destination any cars, freight or passengers under the provisions of this act.

PENALTY FOR VIOLATION OF THIS ACT.

§ 4. Either of the companies named in this act violating the provisions of the same shall forfeit to the other as liquidated damages for each case of refusal or neglect to comply with the terms of this act the sum of $500.

CHAP. 378, LAWS OF 1883

AN ACT in relation to receivers of corporations.

APPLICATION FOR APPOINTMENT OF RECEIVER, WHERE MADE.

SECTION 1. Every application hereafter made for the appointment of a receiver of a corporation shall be made at a special term of the court held in and for the judicial district in which the principal business office of the corporation was located at the commencement of the action wherein such receiver is appointed, or in and for a county adjoining such district, and any order appointing a receiver, otherwise made, shall be void.

COMPENSATION.

§ 2. Every receiver shall be allowed to receive, as compensation for his services as such receiver, five per centum for the first $100,000 received and paid out, and two and a half per centum on all sums received and paid out in excess of the said $100,000. But no receiver shall be allowed or shall receive, from such percentages or otherwise, for his services for any one year, any greater sum or compensation than $12,000, nor for any period less than one year more than at the rate of $12,000 per year, provided that where more than one receiver shall be appointed, the compensation shall be divided between such receivers. (*Thus amended by chap.* 275, *Laws* 1886.)

ORDER APPOINTING RECEIVER TO DESIGNATE PLACE OF DEPOSIT.

§ 3. All orders appointing receivers of corporations shall designate therein one or more places of deposit, wherein all funds of the corporation not needed for immediate disbursement shall be deposited, and no deposits or investments of such trust funds shall be made elsewhere, except upon the order of the court upon due notice given to the attorney-general.

DUTIES OF RECEIVER.

§ 4. It shall be the duty of every receiver of an insurance, banking or railroad corporation, or trust company, to present every six months to the special term of the supreme court, held in the judicial district wherein the place of trial or venue of the action or special proceeding in which he was appointed may then be, on the first day of its first sitting, after the expiration of said six months, and to file a copy of the same, if a receiver of a bank or trust company, with the bank superintendent; if a receiver of an insurance company, with the superintendent of insurance, and in each case with the attorney-general, an account exhibiting in detail the

receipts of his trust, and the expenses paid and incurred therein during the preceding six months; and it shall be unlawful for any receiver of the character specified in this section to pay to any attorney or counsel any costs, fees or allowance until the amounts thereof shall have been stated to the special term in this manner, as expenses incurred, and shall have been approved by that court by an order of the court duly entered; and any such order shall be the subject of review by the general term and the Court of Appeals on an appeal taken therefrom by any party aggrieved thereby. Of the intention to present such account, as aforesaid, the attorney-general shall be given eight days' notice in writing, and the attorney-general shall examine the books and accounts of such receiver at least once every twelve months. (*Thus amended by chap.* 40, *Laws of* 1885.)

INTERVENOR TO PAY HIS OWN LEGAL EXPENSES; NO ALLOWANCE TO BE MADE FOR COSTS TO ATTORNEY.

§ 5. In case of the intervention of any policyholder or depositor, by permission of the court, such policyholder or depositor shall defray the legal expenses thereof, and no allowance shall be made for costs or fees to any attorney of such policyholder or depositor.

RECEIVER TO CLOSE UP AFFAIRS WITHIN ONE YEAR.

§ 6. The affairs of every insolvent corporation now in the hands of any receiver shall be fully closed up by the receiver thereof within one year from the passage of this act, unless the court, upon application by said receiver, and upon due notice to the attorney-general, shall give additional time for that purpose.

ATTORNEY-GENERAL MAY APPLY TO HAVE RECEIVER REMOVED; APPEAL.

§ 7. The attorney-general may, at any time he deems that the interests of the stockholders, creditors, policyholders, depositors or other beneficiaries interested in the proper and speedy distribution of the assets of any insolvent corporation will be subserved thereby, make a motion in the supreme court at a special term thereof, in any judicial district, for an order removing the receiver of any insolvent corporation and appointing a receiver thereof in his stead, or to compel him to account, or for such other and additional order or orders as to him may seem proper to facilitate the closing up of the affairs of such receivership, and any appeal from any order made upon any motion under this section shall be to the general term of said court of the department in which such motion is made.

COPIES OF ALL PAPERS TO BE SERVED ON ATTORNEY-GENERAL.

§ 8. A copy of all motions and all motion papers, and a copy of any other application to the court, together with a copy of the order or judgment to be proposed thereon to the court, in every action or proceeding now pending for the dissolution of a corporation or a distribution of its assets, or which shall hereafter be commenced for such purposes, shall, in all cases, be served on the attorney-general, in the same manner as provided by law for the service of papers on attorneys who have appeared in actions, whether the applications but for this law would be *ex parte* or upon notice, and no order or judgment granted shall vary in any material respect from the relief specified in such copy or order unless the attorney-general shall appear on the return day and have been heard in relation thereto; and any order or judgment granted in any action or proceeding aforesaid, without such service of such papers upon the attorney-general, shall be void, and no receiver of any such corporation shall pay to any person any money directed to be paid by any order or judgment made in any such action or proceeding, until the expiration of eight days after a certified copy of such order or judgment shall have been served as aforesaid upon the attorney-general.

WHERE APPLICATIONS UNDER THIS ACT TO BE MADE; VENUE CHANGED.

§ 9. All applications to the court contemplated by this act shall be made in the judicial district where the principal office of the insolvent corporation was located; and the venue of all actions or proceedings now pending, not in the judicial district where the principal office of the insolvent corporation was located, are hereby changed and transferred to the county and judicial district where such principal office was located.

PREFERENCE ON CALENDAR.

§ 10. All actions or other legal proceedings and appeals therefrom, or therein brought by or against a receiver of any of the insolvent corporations referred to in this act, shall have a preference upon the calendars of all courts next in order to actions or proceedings brought by the people of the State of New York.

REPEAL.

§ 11. All acts or parts of acts inconsistent herewith are hereby repealed.

CHAP. 383, LAWS OF 1883.

AN ACT entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling stock and provided for the record thereof."

CONDITIONAL SALE, LEASE OR LOAN OF EQUIPMENT AND ROLLING STOCK TO BE INVALID AS TO JUDGMENT CREDITORS AND PURCHASERS, WITHOUT NOTICE, UNLESS EVIDENCED IN WRITING AND RECORDED.

SECTION 1. Whenever any railroad equipment and rolling stock shall hereafter be sold, leased or loaned on the condition that the title to the same, notwithstanding the possessions and use of the same by the vendee, lessee or bailee, shall remain in the vendor, lessor or bailor, until the terms of the contract as to the payment of the installments, amounts or rentals payable, or the performance of other obligations thereunder shall have been fully complied with, but also providing that title thereto shall pass to the vendee, lessee or bailee on full payment therefor as aforesaid, such contracts shall be invalid as to any subsequent judgment creditor or any subsequent purchaser for a valuable consideration without notice, unless

1. The same shall be evidenced by writing, duly acknowledged before some person authorized by law to take acknowledgments of deeds.

2. Such writing shall be recorded in the same book as mortgages are recorded, in the office of the clerk of the county in which is located the principal office or place of business of such vendee, lessee or bailee within the state, or in the office of the register in counties where there is a register's office.

NAME OF VENDOR, ETC., TO BE ON LOCOMOTIVE OR CAR, ETC.

3. Each locomotive or car so sold, leased or loaned, shall have the name of the vendor, lessor or bailor, or the assignee of such vendor, lessor or bailor plainly marked upon both sides thereof, followed by the word owner, lessor, bailor or assignee, as the case may be.

NOT TO INVALIDATE ANY CONTRACT HERETOFORE MADE IF RECORDED WITHIN NINETY DAYS.

§ 2. This act shall not be held to apply to or invalidate any contract heretofore made of the character described in the first section, but the same shall be and remain valid if recorded within ninety days from the date hereof.

CHAP. 285, LAWS OF 1884.

AN ACT to provide for the transfer of securities and property of bankrupt corporations to the receivers of such corporations, and for the transfer by the superintendent of the insurance department to receivers of insolvent life insurance and annuity companies of funds and securities deposited with such superintendent by such company for the security of policyholders.

WHERE RECEIVERS HAVE OR SHALL BE APPOINTED FOR ANY CORPORATION OTHER THAN INSURANCE COMPANIES ON APPLICATION BY ATTORNEY-GENERAL, PROPERTY TO VEST IN RECEIVER; PROVISO.

SECTION 1. In all cases where receivers have been or shall be appointed for any corporation of this state other than an insurance company, on application by the attorney-general, all property, real and personal, and all securities of every kind and nature belonging to such corporation, no matter where located or by whom held, shall be transferred to, vested in, and held by such receiver, provided, however, that such transfer shall only be made when directed by an order of the supreme court, due notice of the application for such order having been made on the attorney-general, and the custodian of the funds, securities, or property.

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CHAP. 376, LAWS OF 1885.

AN ACT to provide for the payment of wages to employes, operatives and laborers of domestic corporations, other than insurance and moneyed corporations, of which a receiver shall be appointed.

WAGES OF EMPLOYES TO BE PREFERRED.

SECTION 1. Where a receiver of a corporation created or organized under the laws of this state and doing business therein, other than insurance and moneyed corporations, shall be appointed, the wages of the employes, operatives, and laborers thereof shall be preferred to every other debt or claim against any such corporation, and shall be paid by the receiver from the moneys of such corporation which shall first come to his hands.

CHAP. 488, LAWS OF 1885.

AN ACT to amend chapter three hundred and fifteen of the laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices."

AMENDING SECTION 2, CHAPTER 315, LAWS OF 1884.

SECTION 1. Section two of chapter three hundred and fifteen of the Laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices," is hereby amended so as to read as follows:

INSTRUMENTS, WHERE TO BE FILED.

§ 2. The instruments mentioned in the preceding section shall be filed in the several towns and cities of this state, where the person to whom such property is so contracted to be sold, if a resident of this state, shall reside at the time of the execution thereof; and if not a resident, then in the city or town where the property so contracted to be sold shall be at the time of the execution of such instrument. In the city of New York such instrument shall be filed in the office of the register of the city, and in the county of Kings in the office of the register of said county. In the several cities of this state other than the cities of New York and Brooklyn, and in the several towns of this state in which a county clerk's office is kept, in such office; and in each of the other towns in this state, in the office of the town clerk thereof. If the conditional vendee be a railroad corporation, the instrument mentioned in the preceding section shall be filed in the office of the clerk of each county through which its railroad is located, or, in counties where there is a register, in the office of the register; and such filing shall be deemed sufficient for all the purposes of this act. Such registers and clerks are hereby required to file all such instruments aforesaid, presented to them respectively for that purpose, and to indorse thereon the time of receiving the same, and shall deposit the same in their respective offices, to be kept there for the inspection of all persons interested.

CHAP. 490, LAWS OF 1885.

AN ACT concerning tramps.

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PENALTY FOR ENTERING BUILDING WITHOUT CONSENT.

§ 4. Any tramp who shall enter any building against the will of the owner or occupant thereof, under such circumstances as shall not amount

to burglary, or willfully or maliciously injure the person or property of another, which injury under existing law does not amount to a felony, or shall be found carrying any firearms or other dangerous weapon, or burglars' tools, or shall threaten to do any injury to any person or to the real or personal property of another, when such offense is not now punishable by imprisonment in the state prison, shall be deemed guilty of felony, and on conviction shall be punished by imprisonment in the state prison at hard labor for not more than three years.

CHAP. 310, LAWS OF 1886.

AN ACT to provide for the winding up of corporations which have been annulled and dissolved by legislative enactment.

DUTY OF ATTORNEY-GENERAL.

SECTION 1. Whenever any corporation organized under the laws of this state shall be annulled and dissolved by an act of the legislature, it shall be the duty of the attorney-general immediately thereafter to bring a suit to wind up and finally settle and adjust the affairs of such annulled and dissolved corporation.

SUIT, WHERE TO BE BROUGHT.

§ 2. Such suit shall be brought in the supreme court in the name of the people of the state, in any county which the attorney-general may select. The president, or vice-president, or secretary, or treasurer of such dissolved corporation, who may have been in office at the time of the dissolution thereof, shall be named, as such officer, as defendant in such suit, and the summons and complaint therein shall be served upon him. If, at the time of such annullment and dissolution, there shall not be one of the above designated officers of such corporation, then such suit shall be brought against and the summons and complaint therein served upon any one of the persons who were last acting as directors of such corporation.

COURT TO APPOINT RECEIVER.

§ 3. It shall be the duty of the special term of the supreme court in the county designated in such summons and complaint, or of any judge of said court who resides in the judicial department in which such county is situated, upon the presentation of a certified copy of the act of the legislature annulling and dissolving a corporation, and of the summons and complaint founded thereon, immediately to appoint a receiver of the assets and property of such dissolved corporation; and the person so appointed

shall be both the temporary and permanent receiver thereof, and shall give a bond with sureties, to be approved by said court or such judge thereof, to the people of the state in the penalty of not less than $10,000, conditioned for the faithful discharge of his duties as such receiver, and for his due accounting for, and paying over all moneys and property which may come to his hands as such receiver. No one of the officers, directors or stockholders of such corporation shall be appointed such receiver thereof.

RECEIVER TO MAKE INVENTORY.

§ 4. Such receiver shall, immediately after his appointment and the approval of his bond, cause an inventory of all the property of such dissolved corporation to be taken and filed in the office of the clerk of the county in which such action is pending, and for the purpose of ascertaining the nature, extent and location of such property, the said receiver shall have power to compel the attendance of witnesses, as hereinafter provided, and all evidence taken by or before said receiver in relation to such property shall be filed by him in the office of such county clerk.

NOTICE TO CREDITORS; POWERS AND DUTIES OF RECEIVERS; CREDITORS TO PRESENT CLAIMS.

§ 5. The said receiver shall, immediately after his appointment, publish in two newspapers to be designated by said court, or such judge thereof, daily for one week, and for such longer time, not exceeding one month, as the said court or such judge thereof may by order designate, a notice to all creditors of such dissolved corporation to present their claims and demands against, and all evidences of indebtedness of such dissolved corporation, to such receiver at a time and place to be designated in such notice. Such receiver is hereby authorized to examine on oath any of such creditors, or claimants, or other witnesses, as to any and all matters pertaining to any claim or demand or evidence of indebtedness so presented. At the expiration of ten days from the date specified in such notice, or within such further time as may be allowed by said court or such judge thereof, the said receiver shall make a list of all the claims presented to or proved before him, in which list he shall specify the amount, origin and true consideration of each claim so presented to or proved before him, and the name of the person in whose behalf the same is presented or proved, and the date when such claimant became the true owner thereof. Such list when so completed shall be verified by such receiver, and shall thereupon be filed, together with such evidence as may have been taken by him, in the office of the said county clerk. The said receiver shall, immediately after such filing, publish a notice

daily for fourteen days in two newspapers to be designated by said court, or such judge thereof, stating that such list will be presented to such court, or to a judge thereof, residing in such county, on a day and at a place to be designated in such notice, and the said court, or such judge thereof, will then and there be asked for an order directing the sale at public auction of all the property specified in such inventory. Any creditor or stockholder may appear and be heard at such time and place. It shall be the duty of said court, or of such judge thereof, to whom such list shall be presented, to examine the same, together with such evidence as the receiver shall have taken, and to reject all claims, demands and evidences of indebtedness which were not legally incurred or created by said corporation, or which were in excess of its powers, or which are for any reason shown to be illegal; and no claim or demand shall be allowed for any greater amount than the money value of the consideration therefor, unless the said court or judge shall find and decide from the evidence taken by and before the receiver, that the person professing to own such claim does in truth own the same by reason of having taken a negotiable instrument or paper before the act dissolving and annulling the corporation alleged to be bound by such instrument or paper, and also before such instrument or paper was by its terms due, and that the same was taken for value paid, and parted with in good faith before said act of dissolution, and without knowledge or notice of any defect, want or deficiency of previous consideration, or other equity, offset or defense originally attaching to such instrument or paper, or to the claim or demand upon which the same are founded. Such examination and rejection shall be made by such court or such judge thereof, and not by any referee.

WHEN CLAIM OF CREDITOR IS DEBARRED; RIGHT OF CREDITOR TO APPEAL; SALE OF PROPERTY; ALLOWANCE TO RECEIVER; DISTRIBUTION OF ASSETS.

§ 6. All creditors whose claims shall not have been presented as above provided shall be debarred from participating in the avails of the sale of the property described in said inventory. Any creditor whose claim may have been rejected, and who shall have appealed, may apply to said court or such judge thereof for an order that a pro rata amount of the avails of such sale which would have appertained to the claim of such creditor, had not the same been rejected, may be retained in court to abide the result of his appeal, and said court, or such judge thereof, shall have discretion to grant the same. Any claimant feeling aggrieved by such rejection may appeal therefrom to the general term and to the Court of Appeals, in the manner now provided by law for such appeals

from orders in civil actions, but neither of such appeals shall stay the proceedings of such receiver or court, or judge thereof, or a sale of such property as herein provided for. The amount of all claims and demands so rejected by said court or such judge shall be deducted from the total amount of claims and demands so filed by the said receiver, and an entry of such rejection shall be made upon said list by said court or such judge, and thereupon the said court or such judge shall by order, reciting the proceedings direct the immediate sale by said receiver, at public auction, at a time and a place and in the manner, and after such notice as may be provided in said order, of all the property in said inventory specified, to such person, firm or corporation as shall bid the highest sum or amount therefor. The receiver shall report to said court or such judge thereof, the name of the highest bidder, the amount bid, and thereupon said court or such judge thereot shall by order forthwith direct the said receiver by proper written instrument to convey and transfer all of the property described in said inventory, and offered for sale at said auction, to said highest bidder, who on receiving the same shall pay to the receiver the sum bid. The said court or such judge thereof shall allow to the receiver two per cent. upon the whole amount received by him from the sale of the property described in said inventory for his compensation as such receiver, and also his disbursements, including witness' fees, and the service of subpœnas, and to the attorney-general, and to such other counsel as the receiver may find it necessary to employ, a reasonable counsel fee. The residue of the amount in the hands of the receiver shall be by him distributed among the owners of the claims in said list, which have been allowed subject to the deduction above provided for in case of an appeal, pro rata, or in full if such residue shall be sufficient therefor, and the receipts of such owners therefor shall be taken upon such list of claims. The balance of such residue, if any, shall be distributed among the lawful stockholders of such corporation in proportion to their interest therein.

PROCEEDINGS NOT TO BE STAYED.

§ 7. No issue raised by answer, or demurrer, or otherwise, to the complaint hereinbefore provided for shall stay the proceedings of the receiver, or court or a judge thereof.

DISCHARGE OF RECEIVER.

§ 8. The said receiver after such payment may apply to said court, or a judge thereof for his final discharge, and if it shall appear that the said receiver has in all things fulfilled his duty in the premises, the said court or judge shall grant such final discharge, and said receiver, until so dis-

charged, may as such receiver sue for and collect all debts due, and demands owing to such corporation.

SUBPŒNAS, BY WHOM ISSUED; RECEIVER MAY ADMINISTER OATHS; FALSE SWEARING, PERJURY.

§ 9. It shall be the duty of the clerk of the county in which such suit is brought, to issue, upon the request of the receiver, subpœnas to compel the attendance of witnesses to enable him to ascertain the nature, extent and location of the property of said corporation, and to give evidence concerning any claim which may be presented by any creditor against the estate of such corporation, which subpœnas shall be served in like manner as in civil actions, and the fees of the witness shall be the same as are now established by law in such actions. The receiver shall have full power and authority to administer oaths to all such witnesses and to any creditor of such dissolved corporation, and to examine them concerning the property of such dissolved corporation, and as to the claims presented against it. Disobedience to such subpœnas shall be a contempt of court, and shall be punished in like manner as other contempt of court are now punishable. Willful false swearing by any witness or creditor in any such examination shall be deemed perjury, and shall be punishable as such in like manner as if committed by a witness on a trial of a civil action.

LEAVE TO SUE RECEIVER, HOW AND WHERE OBTAINABLE.

§ 10. All applications for leave to sue such receiver and all applications for injunctions to restrain his proceedings, shall be made only to the supreme court in the county in which such action was brought, and shall not be made to any other court, or to the supreme court in any other county, and shall not be granted except upon eight days' notice to the attorney-general of the time and place of making such application. In any action hereafter brought or now pending by the attorney-general, to close up, determine, or settle the affairs of any corporation dissolved by legislative enactment, the judgment or determination of the supreme court at general term may be reviewed upon appeal to the court of appeals, as now provided by law, whether the judgment rendered in the case be interlocutory or final. (*Thus amended, chap.* 601, *Laws of* 1887.)

REPEAL, ETC.

§ 11. This act shall take effect immediately, and all acts and parts of acts inconsistent therewith are hereby repealed.

CHAP. 63, LAWS OF 1887.

AN ACT to provide for the amicable adjustment of grievances and disputes that may arise between employer and employes and to authorize the creation of a state board of mediation and arbitration.

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ACT APPLICABLE TO ALL CORPORATIONS.

§ 13. Whenever the term "employer" or "employers" is used in this act, it shall be held to include "firm," "joint-stock association," "company" or "corporation," as fully as if each of the last-named terms was expressed in each place.

CHAP. 401, LAWS OF 1887.

AN ACT in relation to milk cans.

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RIGHTS OF RAILROAD SUPERINTENDENTS IN RELATION THERETO.

§ 11. The owner or owners, dealer or dealers, shipper or shippers, and the several superintendents of the various railroad companies and the branches and connections thereof, and steamboat lines operating their lines, or any portion thereof in the state of New York or elsewhere, shall have power to collect, gather and take into possession from any person or persons within the state of New York, or wherever found in said state, any such milk or cream can or cans, and shall have power to appoint an agent therefor.

WHAT SHALL CONSTITUTE EVIDENCE OF APPOINTMENT OF AGENT.

§ 12. The certificate of any superintendent of any railroad companies or steamboat lines mentioned in this act, or other person or persons authorized thereto, in this act, appointing an agent to collect such can or cans duly acknowledged before a notary public, shall be presumptive evidence of the authority of such agent.

POWERS OF SUCH AGENT.

§ 13. Such agent shall have full power to collect, gather and take into his possession from any persons, or wherever found, any such milk or cream can or cans, and in case of resistance may call to his aid the assistance of any constable or police officer, who shall assist him to take possession of such can or cans.

CHAP. 529, LAWS OF 1887.

AN ACT to regulate the hours of labor in the street surface and elevated railroads chartered by the state, in cities of 100,000 inhabitants and over.

HOURS OF LABOR ON SURFACE STREET AND ELEVATED RAILROADS.

SECTION 1. Ten hours' labor to be performed within twelve consecutive hours, with reasonable time for meals, shall constitute a day's labor in the operation of all street surface and elevated railroads owned or operated by corporations incorporated under the laws of this state, whose main line of travel, or whose routes lie principally within the corporate limits of cities of more than 100,000 inhabitants, whatever motive power may be used in the operation of such railroads.

VIOLATION OF ACT A MISDEMEANOR.

§ 2. It shall be a misdemeanor for any officer or agent of any such corporation to exact from any of its employes more than ten hours' labor, the same to be performed within twelve consecutive hours, with not less than one-half hour for dinner, constituting a day; provided, however, that in cases of accident or unavoidable delay, extra labor may be permitted for extra compensation.

HOW APPLICABLE.

§ 3. This act shall not affect contracts now in force, nor apply to existing corporations whose charters are not subject to alteration, modification or repeal.

REPEAL.

§ 4. All acts inconsistent with this act are hereby repealed.

(This act supersedes chap. 151, Laws of 1886.) As to street roads, see, also, chap. 415, Laws of 1880. As to elevated roads, see, also, chap. 338, Laws of 1881.

CHAP. 225, LAWS OF 1888.

AN ACT further to amend chapter 315 of the Laws of 1884, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices."

SECTION 1. Section seven of chapter three hundred and fifteen of the Laws of eighteen hundred and eighty-four, entitled "An act requiring contracts for the conditional sale of personal property on credit to be filed in the town clerk's and other offices," as the same was amended

by chapter four hundred and eighty-eight of the Laws of eighteen hundred and eighty-five, and by chapter four hundred and ninety-five of the Laws of eighteen hundred and eighty-six, is hereby further amended so as to read as follows:

§ 7. * * * This act shall not apply to railroad equipment or rolling-stock sold, leased or loaned, under a contract which has been or must be recorded pursuant to the provisions of chapter three hundred and eighty-three of the Laws of eighteen hundred and eighty-three, entitled "An act relating to certain contracts for the lease or conditional sale of railroad equipment and rolling-stock, and providing for the record thereof."

CHAP. 38, LAWS OF 1889.

AN ACT to regulate the payment of fares upon railroads.

EXTRA FARE MAY BE EXACTED WHEN NO TICKET IS PURCHASED; REBATE TICKET TO BE ISSUED THEREFOR.

SECTION 1. It shall be lawful for any company owning or operating a steam railroad in this state to demand and collect an excess charge of ten cents over the regular or established rate of fare, from any passenger who pays fare in the car in which he or she may have taken passage, except where such passage is wholly within the limits of any incorporated city in this state; provided, however, that it shall be the duty of such company to give to any passenger paying such excess a receipt or other evidence of such payment, and which shall legibly state that it entitles the holder thereof to have such excess charge refunded upon the delivery of the same at any ticket office of said company, upon the line of their railroad, and said company shall refund the same upon demand; and provided, further, that this act shall not apply to any passenger taking passage from a station or stopping place when tickets cannot be purchased during half an hour previous to the schedule time for the departure of said train on which such passenger takes passage.

CHAP. 38, LAWS OF 1889.

AN ACT to provide for the cash payment of wages by corporations.

WAGES PAYABLE ONLY IN CASH.

SECTION 1. Every manufacturing, mining or quarrying, mercantile, railroad, street railway, canal, steamboat, telegraph, and telephone corporation and every incorporated express company, and water company not municipal, shall pay to each and every employe engaged in its business the wages earned by such employe in cash; and it shall not be law-

ful for any of the above-named companies or corporations to pay their employes in their own scrip or that of others commonly known as store money orders.

PENALTY FOR VIOLATION OF ACT.

§ 2. Any corporation violating any of the provisions of this act shall be punished by a fine not exceeding fifty, and not less than ten dollars, on each complaint on which it is convicted, provided complaint for such violation is made within thirty days from the date thereof.

ACT WHEN TO GO INTO OPERATION.

§ 3. This act shall take effect upon the first day of July, one thousand eight hundred and eighty-nine.

CHAP. 555, LAWS OF 1890.

AN ACT to provide for the improvement and maintenance of the public roads in certain counties as county roads.

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CONSTRUCTION OF HORSE, ELECTRIC OR OTHER RAILWAYS.

§ 7. No horse railway or electric or other railway shall be laid, constructed or operated on said county roads, unless, in addition to the requirements of existing laws, the same shall be authorized by a two-third vote of the board of supervisors and unless the same shall be constructed with a flat or grooved rail, and in case of horse railways, paved between the tracks in the manner prescribed by the board of supervisors in the resolution authorizing the same, and the same constantly maintained in good order and condition by said railroad company, and the railroad or corporation constructing the same shall agree thereto, and it shall be the duty of the said board of supervisors to require from said railroad or corporation, or other person, a bond with sufficient sureties as a guarantee, and conditioned for the performance of their agreement, and the board of supervisors may, from time to time, require such bond to be renewed in case the sureties, or any of them, in its judgment, shall become insufficient.

CHAP. 566, LAWS OF 1890.

AN ACT in relation to transportation corporations, excepting railroads, constituting chapter forty of the general laws.

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CROSSINGS.

§ 33. Whenever any tramway, constructed by any such corporation, shall cross a railroad, highway, turnpike, plank-road or canal, such tram-

way shall be so constructed as not to interfere with the free use of such railroad, highway, turnpike, plank-road or canal for the purposes for which they were intended.

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RAILROAD, TURNPIKE, PLANK-ROAD AND HIGHWAY CROSSINGS.

§ 43. Whenever any line of pipe of any such corporation shall necessarily cross any railroad, highway, turnpike or plank-road, such line of pipe shall be made to cross under such railroad, highway, turnpike or plank-road and with the least injury thereto practicable, and unless the right to cross the same shall be acquired by agreement, compensation shall be ascertained and made to the owners thereof, or to the public in case of highways, in the manner prescribed in the condemnation law, but no exclusive title or use shall be so acquired as against any railroad, turnpike or plank-road corporation, nor as against the rights of the people of this State in any public highway, but the rights acquired shall be a common use of the lands in such manner as to be of the least practical injury to such railroad, turnpike or plank-road consistent with the use thereof by such pipe line corporation, nor shall any such corporation take or use any lands, fixtures or erections of any railroad corporation, or have the right to acquire by condemnation the title or use, or right to run along or upon the lands of any such corporation, except for the purpose of directly crossing the same when necessary.

CHAP. 189, LAWS OF 1891.

AN ACT to incorporate the Whirlpool Bridge Company.

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POWER TO TAKE AND HOLD REAL ESTATE; CORPORATION TO HAVE SAME POWERS AS RAILROAD CORPORATIONS IN CERTAIN MATTERS.

§ 7. The said corporation is hereby empowered to purchase, receive and hold such real estate on either side of the Niagara river, as may be necessary and convenient in accomplishing the objects for which this charter is granted, and may, by their surveyor and engineer, enter upon such sites and locations and take possession of the same. All such sites and locations as shall be entered upon, as aforesaid, shall, except donations, be purchased of the owner or owners at a price to be mutually agreed upon; in cases of disagreement as to the prices to be paid for such land, within the boundaries of the state of New York, then the said corporation shall possess all the powers and privileges contained in the thirteenth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nine-

teenth, twentieth, twenty-first, twenty-second, twenty-third, twenty-fourth, twenty-fifth, twenty-sixth and twenty-eighth sections of the act entitled "An act to authorize the formation of railroad corporations and to regulate the same," passed April second, eighteen hundred and fifty, and as the same have been and stand amended and subject to the duties, liabilities and provisions of the said sections contained.

THIS CORPORATION TO POSSESS GENERAL POWERS, ETC., PRESCRIBED IN ACT AUTHORIZING CONSOLIDATION OF CERTAIN RAILROAD COMPANIES.

§ 8. The corporation shall possess the general powers and be subject to the restrictions and liabilities prescribed in the act entitled "An act authorizing the consolidation of certain railroad companies," passed May twentieth, eighteen hundred and sixty-nine, so far as the same are applicable thereto, for the purpose of consolidating with any corporation chartered for like purposes by the parliament of Canada; and shall further have the power to lease the said bridge, the approaches and connections and appurtenances thereto, to any chartered corporation for such time and on such time and terms as may be agreed upon.

CHAP. 253, LAWS OF 1891.

AN ACT concerning the Niagara Falls Power Company, and to amend chapter eighty-three of the laws of eighteen hundred and eighty-six, as amended by chapter one hundred and nine of the laws of eighteen hundred and eighty-nine.

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RIGHT TO ENTER UPON LANDS UNDER STREETS, HIGHWAYS, RAILROADS, ETC.

§ 10. Said company may enter upon and use the ground or soil under any street, highway, road, railroad land or public ground, except Erie canal land, within said counties for the purposes aforesaid, and may, when necessary, change the location or surface grade of any street, highway or road; and such right shall be continuous for said purposes, including the relaying, repairing, altering or extending its works; provided, however, that in cases where any open canal or other open work of said company, shall cross any street, highway, road, public ground or railroad land, said company shall construct, and at all times thereafter maintain suitable and proper bridges over its said work where such bridges are rendered necessary by the construction of its said works; and in cases where its pipes or other covered work shall be laid under the surface of any road, street, highway, public ground or railroad land the surface thereof shall be made

and kept suitable for public travel, and as nearly as may be as it was before said work was done; and in cases of posts and elevated conductors, cables or wires upon and over such road, street, highway, public ground or railroad land, the same shall be so placed and elevated as not to interfere with the ordinary use thereof by the public or railroad company, or highway or railroad purposes.

CHAP. 267, LAWS OF 1891.

AN ACT to authorize change of gauge on railroads and to provide for an increase of floating and bonded indebtedness.

SECTION 1. Any railroad company incorporated under chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations and to regulate the same," and acts amendatory thereof and supplementary thereto, may change the gauge of its road on consent of the board of railroad commissioners and approval of the stockholders of said railroad company owning three-fourths in amount of the capital stock, said approval of said stockholders to be made at a special meeting of the stockholders of said company called for that purpose; and upon like consent of said board of railroad commissioners, and upon like approval of the stockholders of said railroad company owning three-fourths in amount of said capital stock of said company, the floating and bonded indebtedness of said railroad company may be increased to an amount necessary to make such change of gauge and to provide for the operating expenses of said railroad, notwithstanding restrictions or limitations contained in the original certificate of incorporation of said railroad company.

CHAP. 294, LAWS OF 1891.

AN ACT in relation to elevated railways in cities.

WHEN ELEVATED ROAD MAY ABANDON PART OF ITS ROUTE; PROCEEDINGS IN SUCH CASE.

SECTION 1. Any company operating an elevated railway or railways in any city of this state for the transportation of passengers, mails or freight, and which, prior to the passage of this act shall have built and operated six-tenths of its route as set forth and embodied in its articles of incorporation, may declare relinquished* and abandoned any portion of its said route, which it may deem no longer necessary for the successful

* So in the original.

operation of its road and the convenience of the public. Such declaration of abandonment, to be valid, shall be adopted by the board of directors, under the seal of such company, and shall be submitted to the stockholders thereof at a meeting called for the purpose of taking the same into consideration. Due notice of the time and place of holding said meeting, and stating the object thereof shall be given by the company to its stockholders by written or printed notices addressed to each of the persons in whose name the capital stock of the company stands on the books thereof, at the address of such persons as stated on the books, or as known to the secretary of the company, and delivered or mailed to such persons or legal representatives of such persons, respectively, at least thirty days before the time of holding the meeting of such company, and also by a general notice published daily for at least four weeks in some newspaper last designated for the publication of the session laws or of judicial proceedings and legal notices in the county where the route of such company is located; and at the said meeting of stockholders the declaration of the said directors shall be considered and a vote by ballot taken for the adoption or rejection of the same, each share entitling the holder thereof to one vote, and said ballots shall be cast in person or by proxy, and if two-thirds of all the votes of the stockholders cast in person or by proxy at said meeting shall be for the adoption of said declaration of abandonment, then that fact shall be certified thereon by the secretary of the company under the seal thereof, and the declaration so adopted shall be submitted for approval to the state board of railroad commissioners, and if approved to them, such approval shall be indorsed thereon, and the said declaration so certified and indorsed shall be filed and recorded in the office of the secretary of state, and from the time of such filing such portion of said route designated, in such declaration of such company shall be deemed to be abandoned. A copy of such declaration of abandonment, duly certified by the secretary of state, under his official seal, shall be presumptive evidence in all courts and places of the facts which it recites, and of the regularity of the proceedings resulting in such abandonment.

CHAP. 360, LAWS OF 1891.

AN ACT to confer upon the board of railroad commissioners of the state of New York authority to compel the lighting and ventilation of all tunnels within this state which are used by steam railroads.

SECTION 1. The board of railroad commissioners of the state of New York are hereby authorized, empowered and given full and complete

authority to require and compel all tunnels used or to be used by railroads operated by steam in this state to be properly ventilated in such manner and by such means and mechanical appliances as said board of railroad commissioners, or a majority of the same, may direct.

§ 2. The board of railroad commissioners, of this state are also hereby authorized, empowered and given full and complete authority to require and compel all tunnels used, or to be used by railroads operated by steam in this state, to be properly lighted by electricity or otherwise, or by such means or in such manner as said board of railroad commissioners, or a majority of the same, may direct.

§ 3. Whenever said board of railroad commissioners of this state, or a majority thereof, shall cause to be personally served upon any railroad corporation controlling any tunnel, or part of a tunnel, in this state for the purpose of operating a railroad or moving, hauling or propelling cars therein by steam by delivering a copy personally to the president, general manager or any director of said corporation of a notice or order, signed by a majority of said board of railroad commissioners, stating and specifying the structures to be erected, the manner, means, mechanical appliance and apparatus to be used in lighting or ventilating any tunnel or tunnels used by said corporation for the purpose of moving, hauling or propelling cars by steam therein as aforesaid, said corporation shall, within thirty days from and after the service of said notice or order as aforesaid, cause said tunnel or tunnels so used by it as aforesaid to be lighted or ventilated, or both, in the manner and by the means and use of the mechanical apparatus and appliances specified and pointed out in said notice or order.

§ 4. After the expiration of thirty days from the service of said order or notice specified in the preceding section, as therein directed, if said corporation shall not have fully complied with the provisions and requirements of said notice or order as aforesaid and as therein directed and required, said board of railroad commissioners, or a majority of said board, may apply to the supreme court of this state for a writ of mandamus to compel said corporation or corporations so neglecting or refusing to obey and comply with the provisions of said order or notice to comply with and obey the provisions and requirements of said notice or order, and said court shall have full power and authority to hear and determine said matter, and, after giving the corporation or corporations proceeded against an opportunity to be heard in its or their defense, to compel said corporation or corporations so proceeded against to obey said order or notice, and forthwith comply with and carry out the provisions and requirements therein contained.

§ 5. Every corporation violating any of the provisions of this act

shall be guilty of a misdemeanor, and may be indicted therefor, and may be compelled to appear and plead to an indictment therefor in the person of its president, secretary, treasurer or any director thereof, and a bench warrant may issue out of any competent court to compel such attendance and pleading, and upon conviction thereof, punished by a fine of $1,000, and an additional fine of $500 a day for each and every day or part of a day after thirty days from the due service of said notice or order that said corporation shall refuse or neglect to obey and carry out the requirements and provisions of the same, and duly sentenced to pay the same.

§ 6. It shall be the duty of the district attorney prosecuting any corporation for a violation of any of the provisions of this act, that shall be convicted thereof, and sentenced to pay a fine therefor, to cause a judgment-roll to be made up, consisting of the indictment orders and sentence of the court and a formal judgment, to be prepared by him, which judgment shall be duly signed by the clerk of the county in which said trial took place; said judgment-roll shall be filed by said county clerk and said judgment shall be duly recorded in the book of judgments in said county and duly entered and docketed by said county clerk in said county the same as if said judgment had been obtained in a civil action, and said judgment so duly entered and docketed shall become and be a lien upon all the real estate of said corporation against which the same is obtained, and the collection thereof may be enforced by execution to be issued and signed by the district attorney of the county where the trial of said indictment took place, in the same manner and to the same extent as executions are collected in civil action.

§ 7. In cities in this state having a population of one million inhabitants or over, where tunnels are or may hereafter be operated or controlled by any railroad corporation, such portions of any mechanical or other devices or appliances as may be required under the provisions of this act to be constructed on or above the surface of any streets, avenues or other places under which such tunnels may be built, shall be subject as to form, material and construction, the approval of the local authorities in such cities, except that in the city of New York such approval shall be by a majority vote of the mayor, the comptroller, the commissioner of public works and the president of the department of public parks of said city.

CHAP. 401, LAWS OF 1892.

AN ACT to revise and consolidate the laws regulating the sale of intoxicating liquors.

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LICENSES BY COMPTROLLER TO COMMON CARRIERS.

§ 30. The comptroller is hereby authorized to grant licenses to persons, associations or corporations engaged in the transportation of passengers by cars, steamboats or vessels, within the limits of this state, permitting them to sell strong or spirituous liquors, wines, ale or beer, to such passengers while in transit, without license by any board of excise. Every license so granted by the comptroller shall expire at the end of one year from the date of its issuance. It shall be granted upon such terms, conditions and restrictions as such comptroller may deem proper, and upon the payment of such sum as he shall fix, not less than thirty dollars for each and every car, boat or vessel in which such sales are to be made. The moneys received by him for licenses shall be paid into the treasury of the state. Any person or corporation who shall sell, or permit to be sold, or offer or expose for sale any strong or spirituous liquors, wines, ale or beer, upon any car, steamboat or vessel, without having first obtained a license therefor as herein provided, shall forfeit the sum of fifty dollars for each offense, to be sued for and recovered in an action in the name of the people, brought by the attorney-general; and the person so offending shall be guilty of a misdemeanor.

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EMPLOYMENT OF PERSONS ADDICTED TO INTOXICATION BY COMMON CARRIERS.

§ 39. Any person, association or corporation engaged in the business of conveying passengers and property for hire who shall employ in the conduct of such business any person who habitually indulges in the intemperate use of intoxicating drinks, after notice that such person has been intoxicated while in the active service of such person, association or corporation as an engineer, fireman, conductor, switchtender, commander, pilot, mate, foreman, or in other like capacity, so that by his neglect of duty the safety and security of the life, person or property so conveyed might be imperiled, shall be guilty of a misdemeanor.

CHAP. 488, LAWS OF 1892.

AN ACT relating to game, fish and wild animals, and to the forest preserve and Adirondack park, constituting chapter thirty-one of the general laws, and to be known as the fisheries, game and forest law. (*Thus amended by chap.* 395, *Laws of* 1895.)

TRANSPORTATION.

§ 46. Deer or venison killed in this state shall not be transported to any point within or without the state, from or through any of the counties thereof, or possessed for that purpose, except as follows: One carcass or a part thereof may be transported from the county where killed when accompanied by the owner. No individual shall transport or accompany more than two deer in any one year under the above provision. The possession of deer or venison by a common carrier or by any person in its employ then actually engaged in the business of such common carrier, unaccompanied by the owner, shall constitute a violation of this section by such common carrier. This section does not apply to the head and feet or skin of deer severed from the body. Whoever shall violate or attempt to violate the provisions of this section shall be deemed guilty of misdemeanor, and in addition thereto shall be liable to a penalty of one hundred dollars for each wild deer or part thereof had in possession in violation of this section. (*Thus amended by chap.* 974, *Laws of* 1895.)

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WOODCOCK, QUAIL AND GROUSE; WHEN NOT TO BE TRANSPORTED.

§ 76. Woodcock, ruffed grouse, commonly known as partridge, or any member of the grouse family, or quail killed in this state, shall not be transported to any point within or without this state, from or through any of the counties thereof, or possessed for that purpose, except that such birds may be transported from the county where killed, when accompanied by the owner thereof. Possession of the birds named by a common carrier, or by any person in its employ then actually engaged in the business of such common carrier, unaccompanied by the owner, shall constitute a violation of this section by such common carrier. Whoever shall violate or attempt to violate the provisions of this section shall be deemed guilty of misdemeanor, and in addition thereto shall be liable to a penalty of twenty-five dollars for each bird killed, trapped, snared or possessed contrary to the provisions of this section. (*Thus amended by chap.* 974, *Laws of* 1895.)

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CERTAIN FISH NOT TO BE TRANSPORTED.

§ 109. Trout of any kind, salmon trout or land-locked salmon, caught in any of the inland waters of this state, shall not be transported to any point within or without the state from or through any of the counties thereof, or possessed for that purpose, except when accompanied by the owner. Possession thereof by a common carrier or by any person in its employ then actually engaged in the business of such common carrier unaccompanied by the owner shall constitute a violation of this section by such common carrier. Whoever shall violate or attempt to violate the provisions of this section shall be deemed guilty of misdemeanor and in addition thereto shall be liable to a penalty of twenty-five dollars for each violation and ten dollars for each fish so caught or possessed. (*Thus amended by chap.* 974, *Laws of* 1895.)

See, also, Chap. 62, Laws of 1893. For penalties, see §§ 51, 82 and 120.

CHAP. 425, LAWS OF 1892.

AN ACT to authorize the state engineer and surveyor to file certain reports with the board of railroad commissioners.

SECTION 1. The State engineer and surveyor is hereby authorized and directed, within ten days after the passage of this act, to file with the board of railroad commissioners all original reports from railroad corporations now in his custody and filed in his office in pursuance of section thirty-one of chapter one hundred and forty of the laws of eighteen hundred and fifty.

CHAP. 604, LAWS OF 1892.

AN ACT for the relief of street surface railroad companies organized under chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four.

SECTION 1. Any street railroad company now organized under chapter two hundred and fifty-two of the laws of eighteen hundred and eighty-four, which shall have heretofore constructed and is now operating any extension or branch of its railroad along any streets or highways or portion thereof within any county named in its articles of association, in a city not exceeding in population fifty thousand inhabitants, and shall heretofore have obtained the consent of the owners of one-half in value of the property bounded on and the consent also of the local authorities having control of that portion of a street or highway upon which it has

constructed or operated such railroad, is hereby authorized to operate and maintain the same respectively in like manner and as fully as if the said streets and highways, or portions thereof, were fully named and described in its articles of association, and upon filing in the office of the secretary of state a certificate signed by its board of directors, which certificate shall contain a statement of the names of cities, towns, villages counties, and the names and descriptions of the streets, avenues and highways in which such extension or branch has been constructed, the places from and to which the same has been constructed and is to be maintained and operated, and the length thereof, as near as may be; thereupon the said extension and branches shall be deemed and considered a part of the lines of railway of such corporation from the date of the filing thereof, with the same force and effect as if the same were fully named and described in its original articles of association, and all corporate action relating to the construction, maintenance and operation of such extensions or creating liens upon the same by the said corporation, are hereby validated and confirmed.

§ 2. Nothing in this act contained shall affect or impair any vested right or any pending litigation.

§ 3. This act shall take effect immediately.

CHAP. 711, LAWS OF 1892.

AN ACT to provide for and limit the hours of service on railroads.

SECTION 1. No person, persons or corporation operating a line of railroad of thirty miles in length or over, in whole or in part, within this state, shall permit or require any conductor, engineer, fireman or any trainman who has worked in any capacity for twenty-four hours, to again go on duty or perform any kind of work until he has had at least eight hours' rest.

§ 2. Ten hours' labor performed within twelve consecutive hours shall constitute a day's labor in the operation of all steam surface and elevated railroads owned and operated within this state, provided that this provision shall not affect the mileage system now in operation, or that may hereafter be placed in operation, or trips of regular scheduled trains when completed within a less number of hours, and it is further provided that the provisions of this act shall not apply to extra hours of labor performed by any conductor, engineer, fireman or trainman in cases of unavoidable accident or delay caused by such accident.

§ 3. For every hour in excess of said ten hours' labor that any conductor, engineer, fireman or any trainman of any railroad company or

corporation, owned or operated within this state, who works under the direction of a superior, or at the request of such company or corporation, shall be required or permitted to work, he shall receive comparative compensation for said extra service in addition to his daily compensation.

§ 4. Any railroad company or corporation, or any officer, agent or employe of any such company or corporation, violating or permitting the violation of any of the provisions of this act, shall be guilty of a misdemeanor, and on conviction shall be punished by a fine of five hundred dollars for each offense.

CHAP. 225, LAWS OF 1893.

AN ACT to authorize bridge companies to lay tracks and operate a railway upon any bridge connecting any city in the state of New York, of more than one million inhabitants, with any other city in said state.

SECTION 1. Any company incorporated for the purpose of constructing and maintaining a bridge or bridges over any river, bay, arm of the sea or other body of water, connecting any city in the state of New York, containing more than one million inhabitants, with any other city in said state, is hereby empowered to lay tracks and operate a railway upon said bridge or bridges.

CHAP. 238, LAWS OF 1893.

AN ACT in relation to filing amended affidavits to certificates of incorporation of railroad companies.

SECTION 1. Where it does not appear by the affidavit indorsed on or annexed to any certificate of incorporation filed under the railroad law, that the amount of capital stock required by the provisions of said law to be paid in good faith and in cash to the directors named in such certificate has been so paid, and where such payment has been made prior to the passage of this act, an affidavit of at least three of the directors named in said certificate, stating that the amount of capital stock required by said railroad law to be paid in good faith and in cash to the directors named in the certificate has been so paid, may be filed in the office of the secretary of state, which affidavits shall be annexed to said certificate, and upon such filing, said certificate shall for all purposes have the same force and effect as if said affidavit had been annexed thereto when said certificate was filed.

CHAP. 239, LAWS OF 1893.

AN ACT in relation to the intersections and crossings of the tracks and roadbeds of certain railroads laid in, across or upon the highways, streets, avenues or roads of the cities, towns and villages of the state.

SECTION 1. Whenever the railroad or route of any street surface railroad corporation shall intersect and cross, or shall cross the tracks and roadbed of any railroad, operated by locomotive, steam or other power, which are laid in, across or upon the surface of any street, avenue, road or highway in any city, town or village of the state, having less than five hundred thousand inhabitants, and such street surface railroad corporation having been unable to agree with the corporation owning the tracks and roadbed so intersected or to be intersected and crossed, as to the line or lines, grade or grades, points or manner of such intersection and crossing, or upon the compensation to be made therefor, shall have applied to the court by petition to appoint commissioners to determine the same, the court shall upon application made by such street surface railroad corporation, at, or after, the time of the appointment of such commissioners, or if an answer to the petition of such street surface railroad corporation has been interposed, at any time thereafter, direct that such street surface railroad corporation be permitted to lay its tracks across and to intersect, upon the surface of the street, avenue, road or highway, the tracks and roadbed of such railroad operated by locomotive, steam, or other power, provided, such street surface railroad corporation shall at the time of obtaining such order make and file with the clerk of said court, its bond or undertaking in writing, in an amount and with surety or sureties to be approved by the court, conditioned for the full and faithful performance by such street surface railroad corporation of any and all conditions and requirements which may be imposed by said commissioners and be affirmed by the court, in determining the line or lines, grade or grades, points or manner of such intersection and crossing and as to the amount of compensation to be paid therefor, and also conditioned to conform such crossing and intersection made by virtue of such order of the court to the requirements made by said commissioners as affirmed by the court.

§ 2. No street surface railroad shall be allowed to lay its tracks at grade across the tracks or roadbed of any railroad operated by locomotive steam power at any point where there are three or more tracks of the steam road proposed to be crossed, which tracks have been constructed and in operation at least two years, unless the written consent of the

state railroad commissioners be first obtained for such crossing at grade. But this section shall not affect the operation of section one of this act in any suit or proceeding now pending nor any renewals of said pending suit or proceeding brought for any cause.

CHAP. 543, LAWS OF 1893.

AN ACT to promote the safety of railway employes by compelling the equipment of freight cars with continuous power or air brakes, and locomotives with driving-wheel brakes.

SECTION 1. That from and after the first day of January, eighteen hundred and ninety-five it shall be unlawful for any railroad company to use within the state on its line or lines any locomotive engine not equipped with a power driving wheel brake and appliances for operating the train brake system.

§ 2. That from and after the passage of this act, in addition to all freight cars now so equipped there shall be equipped each year with continuous power or air brakes by every company operating a line or lines of railroad within the state, at least ten per centum of all freight cars owned or operated by such companies and used within the state except certain cars known and designated as "coal jimmies," and that on and after the first day of January, eighteen hundred and ninety-eight, the use of said "coal jimmies" in any form shall be unlawful within the state under a penalty of one hundred dollars for each offense said penalty to be recovered in an action to be brought by the attorney-general in the name of the people and in the judicial district where the principal office of the company within the state is located.

§ 3. That on and after the first day of January, nineteen hundred and three, it shall be unlawful for any railroad or other company to haul or permit to be hauled or used on its line or lines within the state, any freight car not equipped with continuous power or air brakes operated from the engine.

§ 4. That within sixty days from the passage of this act every railroad or other company operating a line of railroad within the state shall file with the board of railroad commissioners at its office in Albany a verified statement of the total number of freight cars owned or operated by it, the number of such cars equipped with such continuous power or air brakes and the number unequipped, and shall thereafter annually and in the month of January, for the ensuing ten years, file with said board a verified report of the number of cars so equipped in each year and the number of cars, if any, remaining unequipped.

§ 5. That on and after January first, nineteen hundred and three, any railroad or other company using or permitting to be used on its line or lines any freight car not equipped with such continuous power or air brake, operating from the locomotive, shall be liable to a penalty of one hundred dollars for each and every violation, to be recovered in any action to be brought by the attorney-general in the name of the people in the judicial district wherein the principal office of the company within the state is located, and it shall be the duty of the board of railroad commissioners of the state to notify the attorney-general of all such violations coming to its notice.

§ 6. That the board of railroad commissioners may, from time to time, after full hearing given and for good cause shown, exempt any company from the provisions of this act, as to the equipment of ten per centum of its cars in any particular year or years, and may extend the time within which any company shall comply with the requirements of this act, not exceeding, however, five years from the first day of January, eighteen hundred and ninety-eight.

§ 7. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

CHAP. 544, LAWS OF 1893.

AN ACT to promote the safety of railway employes by compelling the equipment of freight cars with automatic couplers.

SECTION 1. That from and after the passage of this act, every new freight car which is to be used in this state shall be equipped with couplers of the Master Car Builders' type, which can be coupled automatically by impact, and which may, except in cases of accident, be uncoupled without the necessity of a person going between the cars.

§ 2. That from and after the passage of this act, in addition to such new freight cars, there shall be equipped each year with such couplers, by every company operating a line or lines of railroad within the state, at least twenty per centum of all freight cars owned or operated by such companies, and used within the state, which are not now so equipped, except certain cars known and designated as "coal jimmies," and that on and after the first day of January, eighteen hundred and ninety-eight, the use of said "coal jimmies," in any form shall be unlawful within the state, under penalty of one hundred dollars for each offense, said penalty to be recovered in an action to be brought by the attorney-general, in the name of the people, and in the judicial district where the principal office of the company within the state is located.

§ 3. That on and after the first day of January, eighteen hundred

and ninety-eight, it shall be unlawful for any railroad or other company to haul, or permit to be hauled or used, on its line or lines within the state, any freight car not equipped with couplers of the Master Car Builders' type, and coupling automatically by impact, and which can be uncoupled, except in cases of accident, without the necessity of men going between the ends of the cars.

§ 4. That within sixty days from the passage of this act, every railroad or other company operating a line of railroad within the state, shall file with the board of railroad commissioners, at its office in Albany, a verified statement of the total number of freight cars owned or operated by it, the number of such cars equipped with the automatic couplers, and the number unequipped; and shall thereafter annually, and in the month of January, for the ensuing five years, file with said board a verified report of the number of cars so equipped in each year, and the number of cars, if any, remaining unequipped.

CHAP. 661, LAWS OF 1893.

AN ACT in relation to the public health, constituting chapter twenty-five of the general laws.

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BURIAL AND BURIAL PERMITS.

§ 23. Every such local board shall prescribe sanitary regulations for the burial and removal of corpses, and shall designate the persons who shall grant permits for such burial, and permits for the transportation of any corpse which is to be carried for burial beyond the county where the death occurred. Every undertaker, sexton or other person having charge of any corpse shall procure a certificate of the death and the probable cause, duly certified by the physician in attendance upon the deceased during his last illness, or by the coroner where an inquisition is required by law, and if no physician was in attendance, and no inquest has been held or required by law, an affidavit stating the circumstances, time and cause of death, and sworn to by some credible person known to the officer granting the permit, and there shall be no burial or removal of a corpse until such certificate or affidavit has been presented to the local board, or to the person designated by it, and thereupon a permit for such burial or removal has been obtained. When application is made for a permit to transport a corpse over any railroad, or upon any passenger steamboat within the state, the board of health, or the officers to whom such application is made, shall require such corpse to be closed in a hermetically sealed casket of metal or other indestructible material, if the cause of death shall have been from a contagious or infectious disease.

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CHAP. 679, LAWS OF 1893.

AN ACT for the relief of street surface railroad companies.

SECTION 1. Any street surface railroad corporation which shall have heretofore constructed and is now operating any extension or branch of its railroad along any streets or highways or portion thereof in a city having less than fifty thousand inhabitants, or in any town adjoining such city, and which shall heretofore have obtained consent of the owners of one-half in value of the property bounded on, and the consents also of the local authorities having control of that portion of the streets, roads or highways upon which such extension or branch is constructed and is being operated to the construction and operation of the same, is hereby authorized to operate and maintain any such branch or extension, upon filing in the office of the secretary of state a certificate, signed by its board of directors, which certificate shall contain a statement of the names of the cities, towns, villages and counties, and the names or description of the streets, avenues and highways in which such extensions or branches have been constructed, the places from and to which the same have been constructed and are to be maintained and operated and the length thereof as near as may be; thereupon said extensions and branches shall be deemed and considered a part of the lines of said railway from the date of the filing thereof, and all corporate action relating to the construction, maintenance and operation of such extensions or branches, or creating liens upon the same by said corporation are hereby validated and confirmed.

§ 2. Nothing in this act contained shall affect or impair any vested right or any pending litigation, nor shall any corporation which shall avail itself of the provisions of this act be deemed thereby to have waived any rights which it theretofore had to maintain and operate any branch or extension named in any certificate filed by it hereunder.

CHAP. 717, LAWS OF 1893.

AN ACT to amend chapter three hundred and eighty-eight of the laws of eighteen hundred and ninety, entitled "An act to provide for the weekly payment of wages by corporations."

§ 1. Every manufacturing, mining, quarrying, lumbering, mercantile railroad other than a steam surface railroad, steamboat, telegraph, telephone and municipal corporation or joint-stock company, and every incorporated or joint-stock express or water company, shall pay once a week to each of its employes the wages earned by such employe to within six days of the date of such payment unless any such employe

shall be absent from his regular place of labor at the usual time of payment, in which case payment shall be made at any reasonable time thereafter upon demand. Every person or corporation operating a steam surface railroad shall on or before the twentieth of each month pay the employes thereof the wages earned by them during the preceding calendar month, unless any such employe shall be absent from his regular place of labor at the usual time of payment, in which case payment shall be made at any reasonable time thereafter upon demand. Whenever any such joint-stock company or corporation shall contract or lease its plant, works or business, to an agent or other person to conduct the same, and to turn over the product or receipts thereof to such joint-stock company or corporation, it shall be and it is hereby made a condition of such contract or lease that the agent or person so contracting or leasing the plant, works or business of such corporation or joint-stock company shall pay in cash weekly or monthly, or if a steam surface railway company, the wages, earned by persons engaged by him to work in and about such plant works or business, the same as if such persons were employed directly by such corporations or joint-stock company. (*Thus amended by chap.* 791, *Laws of* 1895.)

§ 2. Any joint-stock company or corporation violating any of the provisions of this act shall be liable to a penalty not exceeding fifty dollars and not less than ten dollars for each violation, to be paid to the people of the state, and which may be recovered in a civil action; provided notice in writing shall have been given such company or corporation that such an action will be brought if such company or corporation, after service of such notice, shall at any time fail to comply with the provisions of this act. The factory inspector of this state, his assistant or deputies, may bring an action in the name of the people of the state as plaintiffs against any joint-stock company or corporation which neglects to comply with the provisions of this act within two weeks, after having been notified in writing by such inspector, assistant or deputies, that such action will be brought. On the trial of such action such joint-stock company or corporation shall not be allowed to set up any defense for a failure to pay weekly, or monthly, if a steam surface railway company, any employe engaged in its business, the wages earned by such employe to within six days of the date of such payment, or for the preceding calendar month, if a steam surface railway company, other than a valid assignment of such wages or a valid setoff against the same, or in the absence of such employe from his regular place of labor at the time of payment, or an actual tender to such employe at the time of payment of the wages so earned by him, or a breach of contract by such employe, or a denial of the employment. No assignment of future wages, payable weekly or

monthly, if a steam surface railway company, under the provisions of this act shall be valid if made to the corporation or joint-stock company from which such wages are to become due, or to any person on behalf of such joint-stock company or corporation, or if made or procured to be made to any person for the purpose of relieving such joint-stock company or corporation from the obligation to pay weekly or monthly, if a steam surface railway company, under the provisions of this act. Charges for groceries, provisions or clothing shall not be made a valid offset for wages, nor shall any such corporation or joint-stock company require as a condition of employment any agreement from any employe to accept wages at other periods than as provided in section one of this act. Any person, acting as the agent or lessee of the corporation or joint-stock company, and operating its plant, works or business, and disposing of the products thereof chiefly or solely to such corporation or joint-stock company, who shall violate the provisions of this act, shall be guilty of a misdemeanor, and on conviction thereof shall be fined not less than ten dollars or more than fifty dollars. (*Thus amended by chap.* 791, *Laws of* 1895.)

§ 3. The provisions of sections twc hundred and sixty-three and three hundred and eighty-four of the code of civil procedure shall apply to and govern any proceedings brought to enforce the provisions of this act, as against joint-stock companies or corporations, and it is hereby made the duty of the attorney-general of this state to appear in behalf of such proceedings brought hereunder by the factory inspectors of this state, their assistants or depu

CHAP. 258, LAWS OF 1894.

AN ACT to amend the code of civil procedure, relating to proceedings for the voluntary dissolution of corporations.

SECTION 1. Section twenty-four hundred and twenty-seven of the code of civil procedure is hereby amended to read as follows:

HEARING; ORIGINAL PAPERS MAY BE USED.

§ 2427. The court or the referee is entitled to use, upon the hearing, the original petition, and the schedules annexed thereto; and the clerk must transmit them accordingly, upon the written order of the judge, or of the referee. In that case, they must be returned with the decision or report. The court may, at any stage of the proceedings before final order, on the application of the petitioners, or a majority of them, or on the application of the temporary receiver, grant an order amending the schedules annexed to the original petition, by the insertion of additional items, or by making the statements or inventory fuller and in greater detail

than as originally filed, with the like effect as though said petition and schedules had been originally presented and filed as amended.

CHAP. 311, LAWS OF 1894.

AN ACT to authorize certain corporations to construct additional bridges across rivers forming a part of the boundary of this state.

SECTION 1. If a domestic corporation has heretofore, in pursuance of express authority of a statute of this state, constructed and is now operating a bridge over a river which for its entire length forms a part of the boundary of this state, and if there be in such river a waterfall more than one hundred feet in height, and if the land of such corporation adjoin a state reservation, such corporation is hereby authorized to establish, construct and maintain another bridge over such river, below such waterfall, at or near such present bridge and not more than five hundred feet northerly therefrom, and the necessary approaches, for the passage of pedestrians and vehicles; and such corporation may lay tracks upon such new bridge and its approaches for the passage of electric, cable or horse cars, and may operate street cars upon the same by electric, cable or horse power, or any other than locomotive steam power, for the conveyance of passengers and property for compensation. Such corporation shall have the power to lease the said bridge and its appurtenances or to enter into any contract or agreement with any person or corporation with reference to operating and using the same. Such corporation may acquire real property for such purposes by purchase or by condemnation, but this act shall not confer upon such corporation any power to infringe upon such state reservation. Such corporation shall not charge greater toll for the passage of pedestrians or passengers in cars or vehicles over such new bridge than it is authorized by law to charge for passage thereof over such existing bridge. Such corporation may, from time to time, increase the amount of its capital stock in the manner provided by the stock corporation law, notwithstanding the provisions of any general or special law heretofore passed limiting the amount thereof, but the amount of the capital stock shall not be increased beyond the total amount of three hundred and fifty thousand dollars.

CHAP. 338, LAWS OF 1894.

AN ACT relating to canals, constituting chapter thirteen of the general laws.

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POWERS WITH REFERENCE TO RAILROAD, NEAR THE CANALS

§ 25. The superintendent of public works shall have a general supervisory power over so much of any railroad as passes over any canal or

feeder belonging to the state or approaches within ten rods thereof, so far as may be necessary to preserve the free and perfect use of such canals or feeders, or for making any repairs, improvements or alterations thereupon. No railroad corporation shall construct its railroad over or at any place within ten rods of any canal or feeder belonging to the state, unless it submits to the superintendent of public works a map, plan and profile of such canal or feeder and of the route designated for its railroad, exhibiting distinctly and accurately the relation of each to the other at all the places within the limits of ten rods thereof, and obtain the written permission of the superintendent of public works and of the canal board for the construction of such railroad, with such conditions, directions and instructions as, in his judgment, the free and perfect use of any such canal or feeder may require.

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CHAP. 627, LAWS OF 1894.

AN ACT to amend the game law.

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EXCEPTIONS AS TO SAINT LAWRENCE COUNTY AND LAKE CHAMPLAIN IN ESSEX AND WARREN COUNTY.

§ 140. Bullheads, eels, suckers, catfish, and pickerel may be caught with spears, except during March, April and May, and pike in Lake Champlain, in Essex county. It shall be lawful at any time to fish for perch, suckers, bullheads and pickerel with nets and fykes; to shoot and spear such fish through ice and to catch the same in any of the streams, ponds or lakes in Warren county, excepting in Schroon lake and Long pond or Glen lake and Lake George as to the use of nets, fykes and the catching of bullheads. No fish of any kind, except suckers and billfish or garpikes, shall be caught in Black lake, in Saint Lawrence county, or in the waters tributary to said lake, or in the Oswegatchie river, from the boundaries of the city of Ogdensburg to the village of Heuvelton, between the fifteenth of November and the first day of May. Nothing herein contained shall be construed as prohibiting the catching of fish with hook and line in the waters of Black lake, in Saint Lawrence county, at any time, nor to use of spears in catching fish in said Black lake during the months of September, October and November. No transportation company in Saint Lawrence or Jefferson counties shall transport any fish caught contrary to the provisions of this section, and when fish, at any time, are offered such company for transportation, they may, at their option, refuse to accept the same until satisfactory proof is furnished that they were not caught in violation of law. (*Thus amended by chap.* 470, *Laws of* 1895.)

CHAP. 755, LAWS OF 1894.

AN ACT to regulate the use of barbed wire in the construction of division fences.

SECTION 1. Barbed wire shall not be used in the construction of any division fence constructed or built after September first, eighteen hundred and ninety-four, unless the person, association or corporation desiring to use such material shall first obtain the written consent of the owner of the adjoining property that it may be used.

§ 2. Any person, association or corporation who shall construct or build a division fence contrary to the provisions of this act, or who shall maintain such fence after so constructing or building the same, shall forfeit and pay to such adjoining property owner, or other person lawfully occupying such adjoining property, treble damages for all injuries occasioned to him thereby.

CHAP. 240, LAWS OF 1895.

AN ACT to provide for licensing foreign stock corporations.

SECTION 1. Every foreign corporation except banking, fire, marine, casualty and life insurance companies, and corporations wholly engaged in carrying on manufactures in this state, co-operative fraternal insurance companies, endowment orders and building and loan associations, now authorized to do business in this state, under the provisions of chapter six hundred and eighty-seven of the laws of eighteen hundred and ninety-two, entitled "An act to amend the general corporation law," shall pay to the state treasurer for the use of the state, a license fee of one-eighth of one per centum for the privilege of exercising its corporate franchises or carrying on its business in such corporate or organized capacity in this state, on the first day of December, eighteen hundred and ninety-five, to be computed upon the basis of the amount of capital stock employed by it within this state during the year preceding that date, and every such foreign corporation which shall hereafter be authorized to do business in this state shall pay a like license fee for the privilege, to be computed upon the basis of the capital stock employed by it within this state for its business during the first year of carrying on its business in this state. The amount of capital upon which such taxes shall be paid shall be fixed by the comptroller, who shall have the same authority to examine the books and records in this state of such foreign corporations, and the employes thereof, and the same power to issue his warrant for the collection of such taxes, as he now has with regard to domestic corporations. Every such foreign corporation hereafter authorized to do busi-

ness in this state shall, before receiving the certificate of authority provided by law, pay to the state treasurer, for the use of the state, the tax hereinbefore provided for. No action shall be maintained or recovery had in any of the courts of this state by such foreign corporation doing business in this state, without obtaining the certificate of authority prescribed by law, and a receipt for the license fee hereby imposed.

CHAP. 395, LAWS OF 1895.

AN ACT to amend the game law and to repeal chapter three hundred and thirty-two of the laws of eighteen hundred and ninety-three, entitled "An act in relation to the forest preserve and Adirondack park, constituting articles six and seven of chapter forty-three of the general laws."

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DUTIES OF RAILROAD COMPANIES.

Every railroad company whose road passes through waste or forest lands or lands liable to be overrun by fires within the state, shall twice in each year cut and remove from its right of way all grass, brush or other inflammable materials, but under proper care and at proper times when fire, if set, can be kept under control. All locomotives which run through forest lands shall be provided with approved and sufficient arrangements for preventing the escape of fires from their furnaces or ashpans and with nettings of steel or iron wire upon their smoke stacks to prevent the escape of sparks of fire, and every engineer and fireman employed upon a locomotive shall see that the appliances to prevent the escape of fire are in use and applied as far as it can be reasonably and practically done. No railroad company shall permit its employes to deposit fire coals or ashes upon their track in the immediate vicinity of wood lands, or lands liable to be overrun by fires, and where any engineers, conductors or trainmen discover that fences or other material or substances along the right of way upon wood lands adjacent to the railroad are burning, or in danger from fire, they shall report the same at their next stopping place and the person in charge of such station shall take prompt measures to extinguish such fires and shall immediately notify the nearest firewarden or fish and game protector and forester. In seasons of drought and especially during the first dry time in the spring after the snows have gone and before vegetation has revived, railroad companies shall employ a sufficient number of trackmen for the prompt extinguishment of fires; and where a forest fire is raging near the line of their road, they shall concentrate such help and adopt such measures as shall most effectually arrest its progress. If any rail-

road company or any of its employes violate any provision of this section the company shall forfeit to the people of the state the sum of one hundred dollars for every such violation.

CHAP. 417, LAWS OF 1895.

AN ACT to regulate the exercise of their franchises by certain public corporations, by requiring them to afford facilities for the transaction of the public business, to certain public officers and employes.

SECTION 1. The mayor of each city of this state and the president of each incorporated village may issue, under the seal of his office, to each policeman and fireman appointed by the duly constituted authorities of such city or village, a certificate of the appointment and qualification of such policeman or fireman as such, and specifying the duration of his term of office; and it shall thereupon be the duty of every street surface and elevated railroad company carrying on business within such city or village, to transport every such policeman or fireman free of charge while he is traveling in the course of the performance of the duties of his office. Every telegraph or telephone company engaged in business within such city or village shall afford to such policeman or fireman the use of its telegraph lines or telephones for the purpose of making and receiving reports and communications in the course of the performance of his official duties.

§ 2. Every policeman or fireman who shall permit any other person to use the certificate issued to him as provided by this act, or to present or make use of the same, except while acting in the course of the performance of his official duties, or who shall use such certificate after the expiration of his term of office or his resignation or removal therefrom, shall be deemed guilty of a misdemeanor.

§ 3. This act shall take effect immediately.

CHAP. 700, LAWS OF 1895.

AN ACT to extend the time for the commencement of construction or completion of railroads other than street surface railroads.

SECTION 1. The time or times prescribed for the commencement of the construction, or the completion of its railroads or any portion thereof, by any railroad company which has already acquired at least one-third of its right of way, or begun the construction of any portion of its railroads, is hereby extended five years from the first day of January, eighteen hundred and ninety-five.

§ 2. This act shall take effect immediately.

CHAP. 1027, LAWS OF 1895.

AN ACT in relation to the issue of mileage books by railroad corporations.

SECTION 1. Every railroad corporation operating a railroad in this state, the line or lines of which are more than one hundred miles in length, and which is authorized by law to charge a maximum fare of more than two cents per mile and not more than three cents per mile, shall issue mileage books entitling the holder thereof to travel one thousand miles on the line or lines of such railroad, for which the corporation may charge a sum not to exceed two cents per mile. Any railroad corporation which shall refuse to issue a mileage book as provided by this section, or, in violation thereof, to accept such mileage book for transportation, shall forfeit fifty dollars, to be recovered by the party to which such refusal is made; but no action can be maintained therefor unless commenced within one year after the cause of action accrued.

§ 2. This act shall take effect immediately.

Tax Laws Relating to Railroads.

CHAP. 694, LAWS OF 1867.

AN ACT in relation to the valuation of the property of railroad companies in school districts, for the purpose of taxation.

DUTY OF TOWN ASSESSORS.

SECTION 1. It shall be the duty of the town assessors, within fifteen days after the completion of their annual assessment-list, to apportion the valuation of the property of each and every railroad, telegraph, telephone and pipe-line company as appears on such assessment-list, among the several school districts in their town, in which any portion of said property is situated, giving to each of said districts their proper portion, according to the proportion that the value of said property in each of such districts bears to the value of the whole thereof in said town. (*Thus amended by chap.* 414, *Laws of* 1884.)

APPORTIONMENT.

§ 2. Such apportionment shall be in writing, and shall be signed by said assessors, or a majority of them, and shall set forth the number of each district and the amount of the valuation of the property of each railroad, telegraph, telephone and pipe-line companies apportioned to each of said districts; and such apportionment shall be filed with the town clerk, by said assessors, or one of them, within five days after being made; and the amount so apportioned to each district shall be the valuation of the property of each of said companies, on which all taxes

against said companies in and for said districts shall be levied and assessed, until the next annual assessment and apportionment. (*Thus amended by chap.* 414, *Laws of* 1884.)

WHEN ASSESSORS NEGLECT TO MAKE APPORTIONMENT.

§ 3. In case the assessors shall neglect to make such apportionment, it shall be the duty of the supervisor of the town on the application of the trustees or board of education of any district, or of any railroad, telegraph, telephone and pipe-line company, to make such apportionment, in the same manner and with the like effect as it made by said assessors. (*Thus amended by chap.* 340, *Laws of* 1885.)

TOWN CLERK TO FURNISH CERTIFIED STATEMENT WHEN REQUESTED.

§ 4. The town clerk shall, whenever requested, furnish to the trustees or board of education of each district a certified statement of the amounts apportioned to each district, and the name of the company to which the same relates.

WHEN ALTERATION IS MADE IN SCHOOL DISTRICT.

§ 5. In case any alteration shall be made in any school district, affecting the property of any railroad, telegraph, telephone or pipe-line company, the officer making such alteration shall, at the same time determine what change in the valuation of the said property in such districts would be just, on account of the alteration of district, and the valuation shall be accordingly changed. (*Thus amended by chap.* 340, *Laws of* 1885.)

CHAP. 506, LAWS OF 1870.

AN ACT to facilitate the payment of taxes by railroad companies.

(Section one repealed by section 53, chap. 686, Laws of 1892.)

RAILROAD COMPANIES MAY PAY TAX TO COUNTY TREASURER; FEES OF TREASURER.

§ 2. Any railroad company heretofore organized under the laws of this state, or that may be hereafter organized, may, within thirty days after the receipt of such statement by the county treasurer, pay the amount of tax so assessed or levied on their property, with one per cent. fees on said tax, to the county treasurer, who is hereby authorized and directed to receive such amounts and to give proper receipt therefor.

COUNTY TREASURER TO NOTIFY COLLECTOR OF NON-PAYMENT OF TAX; DUTY OF COLLECTOR.

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of the county treasurer to notify the col-

lector of all towns or cities in their county in which said company is assessed, of such failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect said tax in the manner now provided by law, together with five per cent. fees; but no town or city collector shall collect any tax levied or assessed upon the property of any railroad company in said county, by the supervisors of the county, until the receipt of such notice from the county treasurer.

COUNTY TREASURER TO CREDIT TAXES; COLLECTOR TO BE CREDITED WITH FEES; SURPLUS TO BE PAID TO SUPERVISOR.

§ 4. The several amounts of tax so received by the county treasurer of and from railroad companies shall be placed to the credit of the town or city for or on account of which the same was levied or assessed, and to the credit of the fund or funds to which the same is now or shall be hereafter pledged or appropriated by law, and the one per cent. fees also paid shall be placed to the credit of the collector of said city or town; and in case such amounts shall exceed the sum due from said town or city, the surplus shall, on demand, be paid to the supervisor of said town or city, who shall receive, hold and disburse the same as if received from the collector of said town or city.

RAILROAD COMPANY MAY PAY TAX COLLECTOR; PROVISO.

§ 5. Nothing in this act shall be construed to prevent any railroad company from paying their tax to the collector of towns or cities as now provided by law; nor shall the provisions of this act be construed to repeal or in any manner interfere with the provisions of chapter 907 of the Session Laws of 1869.

CHAP. 361, LAWS OF 1881.

AN ACT to amend chapter 542 of the Laws of 1880, entitled "An act to provide for raising taxes for the use of the state upon certain corporations, joint-stock companies and associations."

CERTAIN OFFICERS OF COMPANY TO MAKE ANNUAL REPORT TO COMPTROLLER ON OR BEFORE FIFTEENTH OF NOVEMBER; WHERE DIVIDEND NOT DECLARED, STOCK TO BE ESTIMATED AND DECLARED; CERTIFICATE TO BE SENT COMPTROLLER; APPEALS.

SECTION 1. Hereafter it shall be the duty of the president or treasurer of every association, corporation or joint-stock company liable to be taxed on its corporate franchise or business, as provided in section 3 of this act, to make report, in writing, to the comptroller annually, on or before the fifteenth day of November, stating specifically the amount of capital paid in, the date, amount and rate per centum of each and every dividend

declared by their respective corporations, joint-stock companies or associations during the year ending with the first day of said month. In all cases where any such corporation, joint-stock company or association shall fail to make or declare any dividend upon either its common or preferred stock during the year ending as aforesaid, or in case the dividend or dividends made or declared upon either its common or preferred stock during the year ending as aforesaid shall amount to less than six per centum upon the par value of the said common or preferred stock, the treasurer and secretary thereof, after being duly sworn or affirmed to do and perform the same with fidelity, according to the best of their knowledge and belief, shall, between the first and fifteenth days of November in each year, in which no dividend has been made or declared as aforesaid, or in which the dividend or dividends made or declared upon either its common or preferred stock amounted to less than six per centum upon the par value of said common or preferred stock, estimate and appraise the capital stock of said company upon which no dividend has been made or declared, or upon the par value of which the dividend or dividends made or declared amounted to less than six per centum, at its actual value in cash—not less, however, than the average price which said stock sold for during said year, and when the same shall have been so truly estimated and appraised, they shall forthwith forward to the comptroller a certificate thereof, accompanied by a copy of their said oath or affirmation, by them signed, and attested by the magistrate or other person qualified to administer the same, provided that if the comptroller is not satisfied with the valuation so made and returned, he is hereby authorized and empowered to make a valuation thereof, and to settle an account upon the valuation so made by him for the taxes, penalties and interest due the state thereon; and any association, corporation or joint-stock company dissatisfied with the account so settled may within ten days appeal therefrom to a board consisting of the secretary of state, attorney-general and state treasurer, which board, on such appeal, shall affirm or correct the account so settled by the comptroller, and the decision of said board shall be final; but such appeal shall not stay proceedings unless the full amount of the taxes, penalties and interest as due on said account, as settled by the comptroller, be deposited with the state treasurer.

COMPTROLLER TO ADD TEN PER CENT. IN CASE OF FAILURE TO MAKE REPORT; PROVISO.

§ 2. If the said officers of any such corporation, joint-stock company or association shall neglect or refuse to furnish the comptroller, on or before the fifteenth day of November of each and every year, with the report aforesaid, or the certificate of appraisement and oath or affirma-

tion, as the case may be, as required by the first section of this act, or to pay the tax imposed on such corporation, company or association within fifteen days after the first of January, as provided in the fourth section of this act, it shall be the duty of the comptroller of the state to add ten per centum to the tax of said corporation, company or association for each and every year for which such report or certificate of appraisement and oath or affirmation were not so furnished, or for which such tax shall not have been paid, which percentage shall be assessed and collected with the said tax in the usual manner of assessing and collecting such taxes; provided, that if said officers of any such corporation, joint-stock company or association shall intentionally fail to comply with the provisions of the first or fourth sections of this act for one year, the comptroller shall report the fact to the governor, who, if he shall be made satisfied that such failure was intentional, shall thereupon direct the attorney-general to take proceedings in the name of the people of this state, to declare the charter or privileges of said corporation, joint-stock company or association forfeited and at an end; and for such intentional failure duly found, the charter and privileges of every such corporation, company or association shall cease, end and be determined.

ANNUAL TAX, HOW COMPUTED.

§ 3. Every corporation, joint-stock company or association whatever, now or hereafter incorporated, organized, or formed under, by, or pursuant to law in this state or in any other state or country, and doing business in this state, except only savings banks and institutions for savings, life insurance companies, banks, foreign insurance companies, manufacturing or mining corporations or companies wholly engaged in carrying on manufacture, or mining ores within this state, and agricultural and horticultural societies, associations or corporations, which exceptions, however, shall not include gas companies, trust companies, electric or steam heating, lighting and power companies, shall be liable to and shall pay a tax, as a tax upon its franchise or business, into the state treasury annually, to be computed as follows: If the dividend or dividends made or declared by such corporation, joint-stock company or association, during any year ending with the first day of November, amount to six or more than six per centum upon the par value of its capital stock, then the tax to be at the rate of one-quarter mill upon the capital stock for each one per centum of dividends so made or declared; or if no dividend be made or declared, or if the dividend or dividends made or declared do not amount to six per centum upon the par value of said capital stock, then the tax to be at the rate of one and one-half mills upon each dollar of the valuation of the said capital stock, made in

accordance with the provisions of the first section of this act; and in case any such corporation, joint-stock company or association shall have more than one kind of capital stock, as, for instance, common and preferred stock, and upon one of said stocks as dividend or dividends, amounting to six or more than six per centum upon the par value thereof, has been made or declared, and upon the other no dividend has been made or declared, or the dividend or dividends made or declared thereon amounting to less than six per centum upon the par value thereof, then the tax shall be at the rate of one-quarter mill for each one per centum of dividends made or declared upon the capital stock upon the par value of which the dividend or dividends made or declared amount to six or more than six per centum, and in addition thereto tax shall be charged at the rate of one and one-half mills upon each dollar of a valuation, made also in accordance with the provisions of this act, of the capital stock upon which no dividend was made or declared, or upon the par value of which the dividend or dividends made or declared did not amount to six per centum. (*Thus amended, Laws of* 1890, *chap.* 522.)

WHEN PAYABLE.

§ 4. It shall be the duty of the treasurer or other officer having charge of any corporation, joint-stock company or association, upon which a tax is imposed by either of the preceding sections of this act, to transmit the amount of said tax to the treasury of the state within fifteen days after the first day of January in each and every year.

§ 5. Relates only to insurance companies.

TAX ON RAILROAD, STEAMBOAT AND OTHER COMPANIES; RATE OF TAX.

§ 6. In addition to the taxes above provided for, every corporation formed for railroad, canal, steamboat, ferry, express, navigation or transportation purposes, and every elevated railway company, and every other corporation, joint-stock company or association now or hereafter incorporated or organized by or under any law of this state, or now or hereafter incorporated or organized by or under the laws of any other state or country, and doing business in this state, and owning, operating or leasing to or from another corporation, joint-stock company or association, any railroad, canal, steamboat, ferry, express, navigation, pipe-line or transportation route or line or elevated railway or other device for the transportation of freight or passengers, or in any way engaged in the business of transporting freights or passengers, and every telegraph company or telephone company incorporated under the laws of this or any other state, and doing business in this state, and every express company or as-

sociation, palace car or sleeping car company or association, incorporated or unincorporated, doing business in this state, shall pay to the state treasurer for the use of the state, as a tax upon its corporate franchise or business in this state, a tax at the rate of five-tenths of one per centum upon the gross earnings in this state of said corporation or company or association, for tolls, transportation, telegraph, telephone or express business transacted in this state.

WHEN PAYABLE; REPORT OF GROSS EARNINGS; REPORT FOR SIX MONTHS ENDING JUNE 30, 1881; TEN PER CENT. TO BE ADDED IN CASE OF NEGLECT.

§ 7. The tax imposed under section 6 of this act shall, after the 1st day of August, 1881, be paid annually on the first day of August of each year. It shall be the duty of the president, secretary, or other proper officer of the corporations, joint-stock companies, or associations referred to in section 6 of this act to transmit to the comptroller, on the first day of August in each year, a statement under oath or affirmation of the amount of the gross earnings of said associations, corporations, or joint-stock companies derived from all sources during the year ending with the preceding thirtieth day of June, together with the amount of tax imposed thereon, by section 6. And it shall also be the duty of the president, secretary, or other proper officer of the corporations, joint-stock companies or associations referred to in section 6 of this act to transmit to the comptroller on the 1st day of August, 1881, a statement, under oath or affirmation, of the amount of the gross earnings of the said associations, corporations, or joint-stock companies derived from all sources during the six months ending with the 30th day of June, 1881, together with the tax imposed thereon by section 6 of this act. And if any such corporation, joint-stock company, or association shall neglect or refuse for a period of thirty days after any tax imposed by sections 6 or 7 of this act becomes due, to make returns or to pay the same, the amount thereof, with the addition of ten per centum thereto, shall be collected for the use of the state as other taxes are recoverable by law from such corporation, joint-stock company or association.

EXEMPT FROM TAXATION FOR STATE PURPOSES; PROVISO.

§ 8. The corporations, joint-stock companies and associations mentioned in this act as taxable shall hereafter be exempt from assessment and taxation for state purposes, except upon their real estate and as herein provided; but they shall in all other respects be liable to assessment and taxation as heretofore.

TAX, APPLICATION OF.

§ 9. The taxes imposed by this act, and the revenue derived therefrom, shall be applicable to the payment of the ordinary and current expenses of the state, and if any corporation, joint-stock company, person, partnership or association shall neglect or refuse to pay any tax by this act required to be paid, the same may be sued for in the name of the people of the state, and recovered in any court of competent jurisdiction, in an action to be brought by the attorney-general at the instance of the comptroller.

SAVING SECTION.

§ 10. All obligations, liabilities and taxes heretofore incurred or imposed under said act, chapter 542 of Laws of 1880, are saved and shall be enforced as if the said act had not been hereby amended.

AMOUNT OF CAPITAL STOCK EMPLOYED IN THIS STATE TO BE BASIS OF TAX; IF DISSATISFIED, COMPTROLLER MAY FIX AMOUNT.

§ 11. The amount of capital stock which shall be the basis for tax under the provisions of section three of this act, in the case of every corporation, joint-stock company and association liable to taxation thereunder, shall be the amount of capital stock employed within this state. In making to the comptroller the report in writing or certificate of estimate and appraisal of the capital stock of such corporation, joint stock company or association, provided for by the first section of this act, it shall be the duty of the president or treasurer thereof, as the case may be, to state, specifically, the amount of capital stock employed within this state of such corporation, joint-stock company or association. Whenever the comptroller is dissatisfied with such report or certificate of estimate and appraisal, as the case may be, of any corporation, joint-stock company or association, whose capital is only partially employed within this state, he is authorized and empowered to ascertain, fix and determine the amount of capital employed within this state, and so settle an account for the taxes and penalties due the state thereon. The gross earnings in this state, which shall be the basis of taxation, under the provisions of section six of this act, shall be the gross earnings derived from business originating and terminating within this state, and shall in no event include earnings derived from business which is of an interstate character, and all settlements for such taxes heretofore based by the comptroller upon gross earnings, excluding earnings from interstate business, are hereby ratified and confirmed, except that the accounts for taxation under section six of this act for the years eighteen hundred

and ninety-two and eighteen hundred and ninety-three shall be settled and adjusted by the comptroller by excluding the earnings of an interstate character as herein provided. (*Thus amended by chap.* 562, *Laws* 1894.)

IN CASE OF FAILURE TO MAKE REPORT, COMPTROLLER MAY EXAMINE BOOKS AND RECORDS, AND MAKE REPORT.

§ 12. Whenever any corporation, joint-stock company or association liable to make reports or certificates of estimate and appraisal to the comptroller, under any of the provisions of this act, shall neglect or refuse to make such report or reports within the time prescribed in this act, or shall make such report or certificate as shall be unsatisfactory to the comptroller, the comptroller is authorized to examine or cause to be examined, the books and records of any such corporation, joint-stock company or association, and to fix and determine the amount of tax and penalty due in pursuance of the provisions of this act, either from the said books and records, or from any other data in his possession which shall be satisfactory to him, and to settle and account for said tax and penalty, together with the expenses of such examination, against said corporation, joint-stock company or association. (*Added by chap.* 501, *Laws* 1885.)

COMPTROLLER MAY ISSUE SUBPŒNAS AND EXAMINE WITNESSES; PENALTY FOR FAILURE TO OBEY SUBPŒNA.

§ 13. Whenever the comptroller shall deem it necessary or important to examine any person as a witness upon any subject or matter relating to the amount of capital stock of such corporation, or to use, examine or inspect any book, account, voucher or document in possession of any officer of such corporation, or other person, or under his control, relating to such capital stock and tax, he shall have the power to issue a subpœna in proper form, commanding such person or officer to appear before him or some person designated as commissioner by him by an appointment in writing, filed in the office of such comptroller, at a time and at the place where the principal office of such corporation is situated within this state in such subpœna specified, to be examined as a witness, and such subpœna may contain a clause requiring such person or officer to produce on such examination all books, papers and documents in his possession or under his control, relating to the capital stock of such corporation and the amount thereof employed within this state. Such subpœna shall be served upon the person named by showing him the original subpœna and delivering to and leaving with him at the same time a copy thereof. The comptroller or the commissioner so designated by him

TAX, APPLICATION OF.

§ 9. The taxes imposed by this act, a[illegible] persons as he may desire to from, shall be applicable to the pa[illegible]pœna or otherwise, and examine expenses of the state, and if an[illegible] which may in any wise be mate- son, partnership or associatio[illegible] the tax to be paid by any such corpo- this act required to be pa[illegible] association as aforesaid. Whenever any the people of the state [illegible] and give evidence as aforesaid, or to dic:tion, in an action [illegible] as hereinbefore provided, shall neglect or of the comptroller [illegible] such books and papers according to the

SAVING SE[illegible]

§ 10. A[illegible] the commissioner so designated by him, or to answer any proper imposed [illegible] pertinent question, he shall be deemed in contempt, and thereupon any shall h[illegible] court of the judicial district within which the prin- [illegible] of such corporation within this state is situated shall, upon [illegible] the comptroller, based upon affidavit showing the commis-

A[illegible]

[illegible] the offense, either, first, make an order requiring the accused to [illegible] before him, at a time and place specified therein, why the ac- [illegible] not be punished for the alleged offense; or, second, issue a [illegible] of attachment directed to the sheriff of a particular county, or [illegible] directed to the sheriff of any county where the man may be [illegible], commanding him to bring him before said justice either forthwith [illegible] time and place therein specified to answer for the alleged offense. [illegible] return of said attachment and the production of the body of the [illegible] therein the said justice shall have jurisdiction in the matter, [illegible] person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed and the same punishments inflicted as in the case of a witness subpœnaed to appear and give evidence as is prescribed in title three, chapter seventeen of the Code of Civil Procedure, in proceedings to punish a contempt of court other than a criminal contempt. (*Added by chap.* 501, *Laws of* 1885.)

COMPTROLLER TO SETTLE AND ADJUST ALL ACCOUNTS AGAINST CORPORATIONS, FOR TAXES AND PENALTIES SINCE MAY 12, 1882; PROVISO AS TO PAYMENTS MADE BEFORE AUGUST 1, 1885.

§ 14. The comptroller is hereby authorized and directed, upon application to him made by any corporation, joint-stock company or association, to make, settle and adjust all accounts against such corporation, joint-stock company or association, for all taxes and penalties arising under the third section of this act since the 12th day of May, A. D. 1882, by taking as a basis for taxation the capital employed within the state by such corporation, joint-stock company or association. Provided,

ch corporation, joint-stock company or association shall the benefits of a settlement upon such basis unless it uch adjustment and paid into the treasury the full so settled, before the first day of August, 1885, nor ion apply to the case of any tax for which suit shall have etofore brought by the attorney-general, in which suit the trial een commenced, or in which judgment shall have been entered eretofore for the people for the amount of said tax. Any corporation, joint-stock company or association whose capital has heretofore been only partially employed within this state, and which is now liable for taxes arising under the third section of this act since the 12th day of May, A. D. 1882, and which are still due and unpaid, may, at any time prior to the first day of August, 1885, pay to the state treasurer for the use of the state, in full discharge of the same, such sum of money as shall be fixed by the comptroller as the tax due for the said period by the said corporation, joint-stock company or association, upon the basis of the capital employed within the state. Provided, that this section shall not apply to the case of any tax for which suit may have heretofore been brought by the attorney-general, and for which judgment shall have been entered therein, or if in such suit trial has been commenced. (*Added by chap.* 501, *Laws of* 1885.)

INTEREST.

§ 15. All accounts hereafter settled by the comptroller agreeably to the provisions of this act shall bear interest from a date thirty days after the sending of notice of settlement hereinafter provided for, until full payment thereof shall be made. (*Added by chap.* 501, *Laws of* 1885.)

COMPTROLLER TO GIVE NOTICE BEFORE MAKING SETTLEMENT OF TAXES.

§ 16. It shall be the duty of the comptroller after making with any partnership, corporation, joint-stock company or association liable to taxation under any of the provisions of this act, the settlement of such taxes, to forthwith send notice thereof, in writing, to such person, partnership, corporation, joint-stock company or association, which notice may be sent by mail to the post-office address of such corporation, joint-stock company or association. (*Added by chap.* 501, *Laws of* 1885.)

PROVISIONS IN RELATION TO REVIEW OF COMPTROLLER; DETERMINATION BY WRIT OF CERTIORARI.

§ 17. No writ of certiorari to review the determination and settlement of the comptroller as to the amount of capital used within the state by any corporation, joint-stock company or association, and as to the tax and penalty to be paid thereon, shall be granted, except application therefor

as aforesaid may administer oaths to such persons as he may desire to examine, so brought before him by subpœna or otherwise, and examine them on oath in relation to any matter which may in any wise be material in determining the amount of the tax to be paid by any such corporation, joint-stock company or association as aforesaid. Whenever any person duly subpœnaed to appear and give evidence as aforesaid, or to produce any books and papers as hereinbefore provided, shall neglect or refuse to appear or to produce such books and papers according to the exigency of such subpœna, or shall refuse to testify before said comptroller or the commissioner so designated by him, or to answer any proper or pertinent question, he shall be deemed in contempt, and thereupon any justice of the supreme court of the judicial district within which the principal office of such corporation within this state is situated shall, upon the motion of the comptroller, based upon affidavit showing the commission of the offense, either, first, make an order requiring the accused to show cause before him, at a time and place specified therein, why the accused should not be punished for the alleged offense; or, second, issue a warrant of attachment directed to the sheriff of a particular county, or generally directed to the sheriff of any county where the man may be found, commanding him to bring him before said justice either forthwith or at a time and place therein specified to answer for the alleged offense. On the return of said attachment and the production of the body of the defendant therein the said justice shall have jurisdiction in the matter, and the person charged may purge himself of the contempt in the same way, and the same proceedings shall be had, and the same penalties may be imposed and the same punishments inflicted as in the case of a witness subpœnaed to appear and give evidence as is prescribed in title three, chapter seventeen of the Code of Civil Procedure, in proceedings to punish a contempt of court other than a criminal contempt. (*Added by chap.* 501, *Laws of* 1885.)

COMPTROLLER TO SETTLE AND ADJUST ALL ACCOUNTS AGAINST CORPORATIONS, FOR TAXES AND PENALTIES SINCE MAY 12, 1882; PROVISO AS TO PAYMENTS MADE BEFORE AUGUST 1, 1885.

§ 14. The comptroller is hereby authorized and directed, upon application to him made by any corporation, joint-stock company or association, to make, settle and adjust all accounts against such corporation, joint-stock company or association, for all taxes and penalties arising under the third section of this act since the 12th day of May, A. D. 1882, by taking as a basis for taxation the capital employed within the state by such corporation, joint-stock company or association. Provided,

however, that such corporation, joint-stock company or association shall not be entitled to the benefits of a settlement upon such basis unless it shall have secured such adjustment and paid into the treasury the full amount of taxes so settled, before the first day of August, 1885, nor shall this section apply to the case of any tax for which suit shall have been heretofore brought by the attorney-general, in which suit the trial has been commenced, or in which judgment shall have been entered heretofore for the people for the amount of said tax. Any corporation, joint-stock company or association whose capital has heretofore been only partially employed within this state, and which is now liable for taxes arising under the third section of this act since the 12th day of May, A. D. 1882, and which are still due and unpaid, may, at any time prior to the first day of August, 1885, pay to the state treasurer for the use of the state, in full discharge of the same, such sum of money as shall be fixed by the comptroller as the tax due for the said period by the said corporation, joint-stock company or association, upon the basis of the capital employed within the state. Provided, that this section shall not apply to the case of any tax for which suit may have heretofore been brought by the attorney-general, and for which judgment shall have been entered therein, or if in such suit trial has been commenced. (*Added by chap.* 501, *Laws of* 1885.)

INTEREST.

§ 15. All accounts hereafter settled by the comptroller agreeably to the provisions of this act shall bear interest from a date thirty days after the sending of notice of settlement hereinafter provided for, until full payment thereof shall be made. (*Added by chap.* 501, *Laws of* 1885.)

COMPTROLLER TO GIVE NOTICE BEFORE MAKING SETTLEMENT OF TAXES.

§ 16. It shall be the duty of the comptroller after making with any partnership, corporation, joint-stock company or association liable to taxation under any of the provisions of this act, the settlement of such taxes, to forthwith send notice thereof, in writing, to such person, partnership, corporation, joint-stock company or association, which notice may be sent by mail to the post-office address of such corporation, joint-stock company or association. (*Added by chap.* 501, *Laws of* 1885.)

PROVISIONS IN RELATION TO REVIEW OF COMPTROLLER; DETERMINATION BY WRIT OF CERTIORARI.

§ 17. No writ of certiorari to review the determination and settlement of the comptroller as to the amount of capital used within the state by any corporation, joint-stock company or association, and as to the tax and penalty to be paid thereon, shall be granted, except application therefor

be made within thirty days after service upon such corporation, joint-stock company or association by the comptroller of notice of such settlement. Nor shall any such writ be granted except the papers upon which motion therefor is to be made, including notice of motion, shall have been served upon the comptroller at least eight days before such motion, nor unless the corporation, joint-stock company or association applying for such writ shall, before making such motion, deposit with the state treasurer the full amount of taxes, penalties and charges so settled and adjusted by the comptroller, and file with him an undertaking in such amount and with sufficient sureties as shall be approved by one of the justices of the supreme court of the state, to the effect that if said writ be vacated and the determination of the comptroller sustained, the applicant for the writ will make payment of all costs and charges which may accrue against such applicant in the prosecution of such writ, including costs on all appeals. (*Added by chap.* 501, *Laws of* 1885.)

COMPTROLLER MAY ISSUE WARRANT FOR COLLECTION AFTER THIRTY DAYS.

§ 18. After the expiration of thirty days from the service by the comptroller of notice of settlement aforesaid, if no proceedings shall have been taken to review the same, as provided by this act, or if the deposit with the state treasurer of the amount of the said settlement, together with the undertaking, as provided for by this act, shall not then have been made, it shall be lawful for the comptroller to issue his warrant or warrants under his hand and seal of office directed to the sheriff of any county in this state, commanding him to levy upon and sell the goods and chattels, lands and tenements of the said corporations, joint-stock company or association found within said county, for the payment of the amount of said settlement, together with interest thereon and costs of executing said warrant, and to return the said warrant to the comptroller, and pay to the state treasurer the money which shall be collected by virtue thereof, by a certain time therein specified, not less than sixty days from the date of such warrant. Such warrant shall be a lien upon and shall bind the personal estate of the person, partnership, corporation, joint-stock company or association against whom it shall be issued, from the time an actual levy shall be made by virtue thereof, and the sheriff to whom such warrant shall be directed shall proceed upon the same in all respects with the like effect and in the same manner as prescribed by law in respect to executions issued against property upon judgments rendered by a court of record, and shall be entitled to the same fees and costs for his services in executing the same, to be collected in the same manner. (*Added by chap.* 501, *Laws of* 1885.)

READJUSTMENT OF ACCOUNTS IN CASES OF ILLEGAL PAYMENT OF TAXES.

§ 19. The comptroller may at any time revise and readjust any account theretofore settled against any person, association, corporation, or joint-stock company by himself or any preceding comptroller for taxes arising under this act or the act to which it is an amendment, whenever it shall be made to appear by evidence submitted to him that the same has been illegally paid or so made as to include taxes which could not have been lawfully demanded and shall resettle the same according to law and the facts and charge or credit, as the case may require, the difference, if any, resulting from such revision and resettlement upon the current accounts of such person, association, corporation or joint-stock company. (*Added by chap.* 463, *Laws of* 1889.)

COMPTROLLER'S ACTION MAY BE REVIEWED BY CERTIORARI; APPEALS FROM DETERMINATION.

§ 20. The action of the comptroller, upon any application made to him by any person or corporation for a revision and resettlement of accounts as provided in this act, may be reviewed, both upon the law and the facts upon certiorari by the supreme court at the instance either of the party making such application or of the attorney-general in the name and in behalf of the people of this state, and for that purpose the comptroller shall return to such certiorari the accounts and all the evidence submitted to him on such application, and, if the original or resettled accounts shall be found erroneous or illegal by this court, either in point of law or of fact, the said accounts shall be there corrected and restated by the said supreme court and from any such determination of the supreme court an appeal may be taken by either party to the Court of Appeals as in other cases. (*Added by chap.* 463, *Laws of* 1889.)

(The provisions of §§ 19 and 20 not to apply to any taxes heretofore paid by any person or corporation in pursuance of a judgment or order of a court or by virtue of any stipulation.)

CHAP. 675, LAWS OF 1881.

AN ACT to facilitate the payment of school taxes by railroad companies.

DUTY OF SCHOOL COLLECTOR TO DELIVER TO COUNTY TREASURER CERTAIN STATEMENT; DUTY OF COUNTY TREASURER IN THE PREMISES.

SECTION 1. It shall be the duty of the school collector in each school district in this state, except in the counties of New York, Kings, and Cattaraugus, within five days after the receipt by such collector of any and every tax or assessment-roll of his district, to prepare and deliver to

the county treasurer of the county in which such district, or the greater part thereof, is situated, a statement showing the name of each railroad company appearing in said roll, the assessment against each of said companies for real and personal property respectively, and the tax against each of said companies. It shall thereupon be the duty of such county treasurer, immediately after the receipt by him of such statement from such school collector, to notify the ticket agent of any such railroad company assessed for taxes at the station nearest to the office of such county treasurer, personally or by mail, of the fact that such statement has been filed with him by such collector, at the same time specifying the amount of tax to be paid by such railroad company. (*Thus amended by chap.* 533, *Laws of* 1885.)

TIME IN WHICH TAX MAY BE PAID WITH ONE PER CENT. FEES.

§ 2. Any railroad company hereafter organized, or which may hereafter be organized, under the laws of this state, may, within thirty days after the receipt of such statement by such county treasurer, pay the amount of tax so levied or assessed against it in such district and in such statement mentioned and contained, with one per centum fees thereon, to such county treasurer, who is hereby authorized and directed to receive such amount and to give proper receipt therefor.

IF TAX NOT PAID WITHIN THIRTY DAYS, DUTY OF COLLECTOR TO COLLECT; LIMITATION.

§ 3. In case any railroad company shall fail to pay such tax within said thirty days, it shall be the duty of such county treasurer to notify the collector of the school district in which such delinquent railroad company is assessed, of its failure to pay said tax, and upon receipt of such notice it shall be the duty of such collector to collect such unpaid tax in the manner now provided by law, together with five per centum fees thereon; but no school collector shall collect by distress and sale any tax levied or assessed in his district upon the property of any railroad company, until the receipt by him of such notice from the county treasurer.

TAX TO BE PLACED TO CREDIT OF SCHOOL DISTRICT, PAID TO COLLECTOR ON DEMAND, FEES TO GO TO COLLECTOR ON DEMAND.

§ 4. The several amounts of tax received by any county treasurer in this state under the provisions of this act, of and from railroad companies shall be by such county treasurer placed to the credit of the school district for or on account of which the same was levied or assessed, and on demand paid over to the school collector thereof, and the one per centum

fees received therewith shall be placed to the credit of, and on demand paid to, the school collector of such school district.

TAX MAY BE PAID TO COLLECTOR DIRECT.

§ 5. Nothing in this act contained shall be construed to hinder, prevent or prohibit any railroad company from paying its school tax to the school collector direct, as now provided by law.

CHAP. 143, LAWS OF 1886.

AN ACT to tax stock corporations for the privilege of organization.

SECTION 1. Every corporation, joint-stock company or association incorporated by or under any general or special law of this state, having capital stock divided into shares, shall pay to the state treasurer for the use of the state a tax of one-eighth of one per centum upon the amount of the capital stock which said corporation, joint-stock company or association is authorized to have, and a like tax upon any subsequent increase thereof. The said tax shall be due and payable upon the incorporation of said corporation, joint-stock company or association, or upon the increase of the capital thereof; and no such corporation, joint-stock company or association shall have or exercise any corporate powers until the said tax shall have been paid. And the secretary of state and any county clerk shall not file any certificate of incorporation or articles of association or certify or give any certificate to any such corporation, joint-stock company or association, until he is satisfied that the said tax has been paid to the state treasurer; and no such company, incorporated by any special act of the legislature shall go into operation or exercise any corporate powers or privileges until said tax has been paid as aforesaid. But this act shall not apply to literary, scientific, medical and religious corporations, or corporations organized under the banking laws of this state or under chapter one hundred and twenty-two of the laws of eighteen hundred and fifty-one, entitled "An act for incorporation of building, mutual loan and accumulating fund associations," and the acts amendatory thereof. In case of the consolidation of two corporations into a new corporation said new corporation shall be required to pay the tax hereinbefore provided for only upon the amount of its capital stock in excess of the aggregate amount of capital stock of said two corporations. (*Thus amended by chap.* 668, *Laws of* 1892.)

APPLICABLE TO GENERAL FUND.

§ 2. The taxes imposed by this act and the revenue derived therefrom, shall be applicable to the general fund and for the payment of those claims and demands which shall constitute a lawful charge upon that fund.

CHAP. 266, LAWS OF 1886.

AN ACT to provide for the more certain recovery of state taxes from delinquent associations, corporations and joint-stock companies.

RECOVERY OF DELINQUENT TAXES; PROVISIONS AS TO PROSECUTION OF SUITS FOR SUCH TAXES.

SECTION 1. For the better enforcement of chapter five hundred and forty-two of the laws of eighteen hundred and eighty and the acts amendatory thereof, it shall be lawful for any person having knowledge of the evasion of taxation under said acts by any association, corporation or joint-stock company liable to taxation thereunder, to report such fact to the comptroller, together with such information as may be in his possession as may lead to the recovery of such taxes from said association, corporation or joint-stock company, and whenever in the opinion of the attorney-general or comptroller the interests of the state require it, either of them is hereby authorized to employ such persons so reporting such evasion to assist in the collection and preparation of evidence and in the prosecution and trial of suits for such taxes; and so much of the sum collected from such delinquent association, corporation or joint-stock company, by reason of such report or such service, as shall be agreed upon by such person and the attorney-general or comptroller as a compensation therefor, shall be paid to such person, provided that the sum so paid shall not exceed ten per centum of the amount so collected; and provided further, that nothing whatever shall be paid to such person for such purpose unless there shall be a recovery of taxes from such delinquent association, corporation or joint-stock company by reason of such report or such services.

As to the general subject of taxation of real estate, etc., see chapter 13, part of 1, Revised Statutes. Also, chap. 411, Laws of 1885.

CHAP. 686, LAWS OF 1892.

AN ACT in relation to counties, constituting chapter eighteen of the general laws.

STATEMENT OF RAILROAD, TELEGRAPH, TELEPHONE AND ELECTRIC-LIGHT TAXES.

§ 53. The clerk shall, within five days after the making out, or issuing of the annual tax-warrant by the board of supervisors, prepare and deliver to the county treasurer of his county, a statement showing the title of all railroad corporations and telegraph, telephone and electric-light lines in such county, as appear on the last assessment-roll of the towns or cities therein, the valuation of the property, real and

personal, of such corporation and line in each town or city, and the amount of tax assessed or levied on such valuation in each town or city in his county.

CHAP. 579, LAWS OF 1895.

AN ACT to amend section sixty-two of chapter nineteen of the general laws, concerning commutations of labor on highways.

SECTION 1. Section sixty-two of chapter nineteen of the general laws is amended so as to read as follows:

§ 62. Every person and corporation shall work the whole number of days for which he, or it, shall have been assessed; except such days as shall be commuted for, at the rate of one dollar per day, and such commutation money shall be paid to the overseers of highways of the district in which the labor shall be assessed, within at least twenty-four hours before the time when the person or corporation is required to appear and work on the highway; but any corporation may pay its commutation money to the commissioners of highways of the town who shall pay the same to the overseers of the districts respectively, in which the labor commuted for was assessed, except in the county of Onondaga where such commutation money shall be paid on or before the first day of June of each year, to the commissioner or commissioners of highways of the town in which the labor shall be assessed, and such commutation money shall be expended by the commissioner or commissioners of highways upon the roads and bridges of the town, as may be directed by the town board.

§ 2. This act shall take effect immediately.

Bonding of Towns, and Railroad Aid Debts.

Several statutes of this state relative to the bonding of towns, etc., are omitted, because by article VIII., section 10 of the Constitution of the state of New York, which went into effect January 1, 1895, they are practically abrogated as to any future application, and remain as applying only to the time prior to the adoption of said constitutional amendment. These acts are as follows: Chap. 695, Laws of 1866; chap. 907, Laws of 1869; chaps. 300, 438, 507, 597, Laws of 1870; chaps. 64, 146, 260, 283, 388, 925, Laws of 1871; chaps. 54, 62, 307, 516, 689, 824, 883, Laws of 1872; chap. 720, Laws of 1873; chap. 328, Laws of 1875; chap. 320, Laws of 1877; chap. 62, Laws of 1879; chaps. 68, 293, Laws of 1882. In connection with this subject, see, however, chap. 685, Laws of 1892, known as the "general municipal law," portions of which are herein given:

ARTICLE VIII.—SECTION 10, CONSTITUTION OF THE STATE OF NEW YORK. No county, city, town or village shall hereafter give any money or property, or loan its money or credit to or in aid of any individual, association or corporation, or become directly or indirectly the owner of stock in, or bonds of, any association or corporation; nor shall any such county, city, town or village be allowed to incur any indebtedness except for county, city, town or village purposes. This section shall not prevent such county, city, town or village from making such provision for the aid or support of its poor as may be authorized by law. No county or city shall be allowed to become indebted for any purpose or in any manner to an amount which, including existing indebtedness, shall exceed ten per centum of the assessed valuation of the real estate of such county or city subject to taxation, as it appeared by the assessment-rolls of said county or city on the last assessment for state or county taxes prior to the incurring of such indebtedness; and all indebtedness in excess of such limitation, except such as may now exist, shall be absolutely void, except as herein otherwise provided. No county or city whose present indebtedness exceeds ten per centum of the assessed valuation of its real estate subject to taxation, shall be allowed to become in-

debted in any further amount until such indebtedness shall be reduced within such limit. This section shall not be construed to prevent the issuing of certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes for amounts actually contained, or to be contained in the taxes for the year when such certificates or revenue bonds are issued and payable out of such taxes. Nor shall this section be construed to prevent the issue of bonds to provide for the supply of water; but the term of the bonds issued to provide the supply of water shall not exceed twenty years, and a sinking fund shall be created on the issuing of the said bonds for their redemption, by raising annually a sum which will produce an amount equal to the sum of the principal and interest of said bonds at their maturity. All certificates of indebtedness or revenue bonds issued in anticipation of the collection of taxes, which are not retired within five years after their date of issue, and bonds issued to provide for the supply of water, and any debt hereafter incurred by any portion or part of a city, if there shall be any such debt, shall be included in ascertaining the power of the city to become otherwise indebted. Whenever hereafter the boundaries of any city shall become the same as those of a county, the power of the county to become indebted shall cease, but the debt of the county at that time existing shall not be included as a part of the city debt. The amount hereafter to be raised by tax for county or city purposes, in any county containing a city of over one hundred thousand inhabitants, or any such city of this state, in addition to providing for the principal and interest of existing debt, shall not in the aggregate exceed in any one year two per centum of the assessed valuation of the real and personal estate of such county or city, to be ascertained as prescribed in this section in respect to county or city debt.

CHAP. 466, LAWS OF 1893.

AN ACT to amend the general municipal law.

FUNDED AND BONDED DEBTS.

§ 7. The bonded indebtedness of a municipal corporation, including interest due or unpaid, or any part thereof, may be paid up or retired by the issue of new substituted bonds for like amounts by the board of supervisors or supervisor, board, council or officers having in charge the payment of such bonds. Such new bonds shall only to be issued when the existing bonds can be retired by the substitution of the new bonds therefor, or can be paid up by money realized by the sale of such new bonds. Where such bonded

indebtedness shall become due within two years from the issue of such new bonds, such new bonds may be issued and sold to provide money in advance to pay up such existing bonds when they shall become due. Such new bonds shall contain a recital that they are issued pursuant to this section, which recital* shall be conclusive evidence of their validity and of the regularity of the issue; shall be made payable not less than one or more than thirty years from their date; shall bear date and draw interest from the date of the payment of the existing bonds, or the receipt of the money to pay the same, at not exceeding the rate of four per centum per annum, payable quarterly, semi-annually or annually; and an amount equal to not less than two per centum of the whole amount of such new bonds shall be payable each year after the issue thereof. Such new bonds shall be sold and negotiated at the best price obtainable, not less than their par value; shall be valid and binding on the municipal corporation issuing them; and until payable shall be exempt from taxation for town, county, municipal or state purposes. All bonds and coupons retired or paid shall be immediately canceled. A certificate shall be issued by the officer, board or body issuing such new bonds stating the amount of existing bonds, and of the new bonds so issued, which shall be forthwith filed in the office of the county clerk. Except as provided in this section, new bonds shall not be issued in pursuance thereof, for bonds of a municipal corporation adjudged invalid by the final judgment of a competent court. A majority of the taxpayers of a town, voting at a general town meeting, or special town meeting duly called, may authorize the issue in pursuance of this section of new bonds for such invalid bonds, and each new bond so issued shall contain substantially the following recital: "The issue of this bond is duly authorized by a vote of the taxpayers of the said town;" which shall be conclusive evidence of such fact. The payment, adjustment or compromise of a part of the bonded indebtedness of a municipal corporation shall not be deemed an admission of the validity or a recognition of any part of the bonded indebtedness of such municipal corporation not paid, adjusted or compromised.

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MUNICIPAL TAXES OF RAILROADS PAYABLE TO THE COUNTY TREASURER.

§ 12. If a town, village or city has outstanding unpaid bonds, issued, or substituted for bonds issued, to aid in the construction

* So in the original.

of a railroad therein, so much of all taxes as shall be necessary to take up such bonds, except school district and highway taxes, collected on the assessed valuation of such railroad in such municipal corporation, shall be paid over to the treasurer of the county in which the municipal corporation is located. Such treasurer shall purchase with such moneys of any town, village or city, such bonds, when they can be purchased at or below par, and shall immediately cancel them in the presence of the county judge. If such bonds can not be purchased at or below par, such treasurer shall invest such money in the bonds of the United States, of the state of New York, or of any town or village or city of such state, issued pursuant to law; and shall hold such bonds as a sinking fund for the redemption and payment of such outstanding railroad aid bonds. If a county treasurer shall unreasonably neglect to comply with this section any taxpayer of the town, village or city having so issued its bonds may apply to the county judge of the county in which such municipal corporation is situated, for an order compelling such treasurer to execute the provisions of this section. The county treasurer of any county in which one or more towns therein shall have issued bonds for railroad purposes, shall, when directed by the board of supervisors or county judge of the county, execute and file in the office of the county clerk an undertaking, with not less than two sureties, approved by such board or judge, to the effect that he will faithfully perform his duties pursuant to this section. The annual report of a county treasurer shall fully state, under the head of "railroad sinking fund," the name and character of all such investments made by him or his predecessors, and the condition of such fund.

ABOLITION OF OFFICE OF RAILROAD COMMISSIONERS.

§ 13. The board of supervisors of any county may, upon the application of the auditing board of any municipal corporation therein by resolution, abolish the office of railroad commissioners of such municipal corporation, and direct the manner of the transfer of their duties to the supervisor of the town, or the treasurer of the municipal corporation other than a town, and upon his compliance with such directions, such transferee shall be vested with all the powers conferred upon such railroad commissioners and subject to all the duties imposed upon them.

APPOINTMENT OF RAILROAD COMMISSIONERS.

§ 14. The county judge of any county within which is a municipal corporation having or being entitled to have railroad commissioners,

when this chapter shall take effect, and in which the duties imposed upon such commissioners are not fully performed, shall continue to appoint and commission, upon the application of twenty freeholders within such corporation, three persons, who shall be freeholders and resident taxpayers therein, commissioners for the purpose of performing the duties and completing the business required of them pursuant to this chapter or any law. Such commissioners shall hold their office for five years, and until others are appointed by the county judge, unless their duties shall be sooner performed, or the office shall be abolished, who shall also in like manner, fill any vacancies that may exist therein. Such commissioners shall each receive the sum of three dollars per day for each day actually engaged in the discharge of their duties, and the necessary disbursements to be audited and paid by the usual auditing and disbursing officers of such municipal corporations. A majority of such commissioners, at a meeting of which all have notice, shall constitute a quorum.

OATH AND UNDERTAKING OF COMMISSIONERS.

§ 15. Before entering upon their duties such commissioners shall take the constitutional oath of office, and make and file with the county clerk of their county, their joint and several undertaking, with two or more sureties to be approved by the county judge of their county, to the effect that they will faithfully discharge their duties as such commissioners, and truly keep, pay over and account for all moneys belonging to such corporation coming into their hands.

EXCHANGE OR SALE OF RAILROAD STOCK AND BONDS.

§ 16. The commissioners or officers of a municipal corporation, having the lawful charge and control of any railroad stock or bonds, for or in payment of which the bonds of such municipal corporation have been lawfully issued in aid of such railroad corporation, may exchange the stocks or bonds of such railroad corporation for and in payment of such bonds, or the new substituted bonds of such municipal corporation, when such exchange can be made for not less than the par value of the stocks or bonds so held by them. If they can not make such exchange they may sell such stock or bonds at not less than par; but they may, on the application and with the approval of the governing board of the municipal corporation, owning such stock and bonds, exchange, sell or dispose of such stock or bonds, at the best price and upon the best terms obtainable for the

municipal corporation they represent, and shall execute to the purchaser the necessary transfers therefor, all moneys received for any stock or bonds shall only be applied to the payment and extinguishment of the bonds of the municipal corporation, lawfully issued in aid of any such railroad, or substituted therefor, except that if the bonds so issued or substituted have all been paid, or the moneys so realized shall be more than sufficient to pay them in full, and all the costs and expenses of the sale, such proceeds or balance thereof shall be paid by the officers making the sale, to the supervisor of the town, or the treasurer of the municipal corporation, and applied to such lawful uses as the governing board of the municipal corporation entitled to the same, may direct.

ANNUAL REPORT OF COMMISSIONERS AND PAYMENT OF BONDS.

§ 17. The commissioners of a municipal corporation, having in charge the moneys received and collected, and who are responsible for the payment of the interest of the bonds lawfully issued by such municipal corporation, in aid of railroads, shall annually report to the governing board of the municipal corporation, the total amount of the municipal indebtedness of the municipal corporation they represent, upon such bonds or such new bonds substituted therefor, the date of the bonds and when payable, the rate of interest thereon, the acts under which they were issued, the amount of principal and interest that will become due thereon before the next annual tax levy and collection of taxes for the next succeeding year, and the amount in their hands applicable to the payment of the principal or interest thereon. Each year such governing board shall levy and collect of the municipal corporation sufficient money to pay such principal and interest, as the same shall become due and payable. When collected, such moneys, with the unpaid sums on hand, shall be forthwith paid over to such commissioners, and applied by them to the purposes for which collected or held. When paid, such bonds shall be presented by such commissioners to the governing board of the municipal corporation, at least five days before the annual town meeting, village, or city election, or meeting of the board of supervisors, next thereafter held, who shall cancel the same, and make and file a record thereof in the clerk's office of the municipal corporation, whose bonds were so paid or canceled.

ACCOUNTS AND LOANS BY COMMISSIONERS.

§ 18. Such commissioners shall present to the auditing board of the municipal corporation they represent, at each annual meeting of

such board, a written statement or report, showing all their receipts and expenditures, with vouchers. They shall also loan on proper security or collaterals, or deposit in some solvent bank, or banking institutions, at the best rate of interest they can obtain, or invest in the bonds of the municipal corporation they represent, or in the bonds of the state, or of any town, village, city or county therein, issued pursuant to law, or in the bonds of the United States, all moneys that shall come into their hands by virtue of their office, and not needed for current liabilities; and all earnings, profits or interest accruing from such loans, deposits or investments, shall be credited to the municipal corporation they represent, and accounted for in their annual settlement with the governing board thereof.

REISSUE OF LOST OR DESTROYED BONDS.

§ 19. When any bonds lawfully issued by a municipal corporation in aid of any railroad, or in substitution for bonds so issued, shall be lost or destroyed, such commissioners may issue new bonds in the place of the ones so lost or destroyed, at the same rate of interest, and to become payable at the same time, upon the owner furnishing satisfactory proof, by affidavit, of such ownership, and loss or destruction, and a written indemnity, with at least two sureties, approved as to form and sufficiency by the county judge of the county in which such municipal corporation is situated. Every new bond so issued shall state upon its face the number and denomination of the bond for which it is issued, that it is issued in the place of such bond claimed to have been lost or destroyed, that it is issued as a duplicate thereof, and that but one is to be paid. Such affidavit and indemnity, duly indorsed, shall be immediately filed in the county clerk's office.

The Code of Criminal Procedure of the State of New York.

SECTIONS APPLICABLE TO RAILROAD COMPANIES.

COURT OF SPECIAL SESSIONS, JURISDICTION OF.

SECTION 1. Section fifty-six of the Code of Criminal Procedure is hereby amended so as to read as follows:

§ 56. Subject to the power of removal provided for in this chapter, courts of special sessions, except in the city and county of New York and the city of Albany, have in the first instance exclusive jurisdiction to hear and determine charges of misdemeanors committed within their respective counties, as follows:

* * * * * * * *

9. Intoxication of a person engaged in running any locomotive engine upon any railroad, or while acting as a conductor of a car, or train of cars, on any such railroad, or a misdemeanor committed by any person on a railroad car or train. (*Thus amended, Laws* 1890, *chap.* 521.)

See, also, chaps. 150 and 570, Laws of 1893.

* * * * * * * *

23. Unlawfully frequenting or attending a steamboat landing, railroad depot, church, banking institution, broker's office, place of public amusement, auction room, store, auction sale at private residence, passenger car, hotel, restaurant, or any other gathering of people. (*Thus amended, Laws* 1886, *chap.* 28.)

See, also, chaps. 150 and 570, Laws of 1893.

OF CRIME COMMITTED IN THE STATE ON BOARD ANY RAILWAY TRAIN, ETC.

§ 137. When a crime is committed in this state, in or on board of any railway engine, train or car, making a passage or trip on or over any railway in this state, or in respect to any portion of the lading or freightage of any such railway train or engine car, the jurisdiction is in any county through which, or any part of which, the

railway train or car passes, or has passed, in the course of the same passage or trip, or in any county where such passage or trip terminates, or would terminate if completed.

PLEA OF GUILTY, HOW PUT IN.

§ 335. A plea of guilty can only be put in by the defendant himself in open court, except upon an indictment against a corporation, in which case it may be put in by counsel.

SUMMONS UPON AN INFORMATION OR PRESENTMENT AGAINST A CORPORATION, BY WHOM ISSUED, AND WHEN RETURNABLE.

§ 675. Upon an information against a corporation, the magistrate must issue a summons, signed by him, with his name of office, requiring the corporation to appear before him, at a specified time and place, to answer the charge; the time to be not less than ten days after the issuing of the summons.

(3 R. S. 1046, §§ 56, 57, 58.)

FORM OF THE SUMMONS.

§ 676. The summons must be in substantially the following form:

"County of *Albany*, [or as the case may be.]

"In the name of the people of the State of New York:

"To the [naming the corporation.]

"You are hereby summoned to appear before me, at [naming the place], on [specifying the day and hour], to answer a charge made against you, upon *the information of A. B.*, for [designating the offense, generally.]

"Dated at the *city*, [or 'town,'] of the day of , 18 .

"G. H., *Justice of the Peace.*"

[Or as the case may be.]

WHEN AND HOW SERVED.

§ 677. The summons must be served at least five days before the day of appearance fixed therein, by delivering a copy thereof and showing the original to the president, or other head of the corporation, or to the secretary, cashier or managing agent thereof.

EXAMINATION OF THE CHARGE.

§ 678. At the time appointed in the summons, the magistrate must proceed to investigate the charge, in the same manner as in the case of a natural person brought before him, so far as those proceedings are applicable.

CERTIFICATE OF THE MAGISTRATE, AND RETURN THEREOF WITH DEPOSITIONS.

§ 679. After hearing the proofs, the magistrate must certify upon the depositions, either that there is or is not sufficient cause to believe the corporation guilty of the offense charged, and must return the depositions and certificate, in the manner prescribed in section 221.

GRAND JURY MAY PROCEED AS IN THE CASE OF A NATURAL PERSON.

§ 680. If the magistrate return a certificate that there is sufficient cause to believe the corporation guilty of the offense charged, the grand jury may proceed thereon as in the case of a natural person held to answer.

§ 681. When an indictment is filed against any corporation, such corporation must be arraigned thereon, and the court acquires jurisdiction over the corporation, in the manner following:

1. The clerk of the court wherein such indictment is found, or to which it is sent or removed, or the district attorney of the county, must issue a summons signed by him with his name of office, requiring such corporation to appear and answer the indictment by a demurrer or written plea to be verified in like manner as a pleading in a civil action, at a time and place to be specified in such summons, such time to be not less than five days after the issue thereof. The summons may be substantially in the following form·

Court of oyer and terminer of the county of , (state the proper county or court as the case may be)

The People of the State of New York

vs.

The A. B. Company.

You are hereby summoned to appear in this court and, by demurrer or plea in writing duly verified, answer an indictment filed against you by the grand jury of this county, on the day of , charging you with the crime of (designating the offense generally), at a term of the court of oyer and terminer (or as the case may be) of this county, at (naming the place) on (stating the day and hour) and in case of your failure to so appear and answer, judgment will be pronounced against you.

Dated at the city (or town) of , the day of 18 .

C. D.,

District Attorney.

(or by order of the court, E. F., Clerk, as the case may be.)

2. The summons must be served at least four days before the appearance fixed therein, in the same manner as is provided for the service of a summons upon a corporation in a civil action; and if the corporation does not appear in the manner and at the time and place specified in the summons, judgment must be pronounced against it.

3. Nothing contained in this section shall be construed as preventing the appearance of a corporation by counsel to answer an indictment, without the issuance or service of the summons as above provided. And when an indictment shall have been filed against a corporation it may voluntarily appear and answer the same by counsel duly authorized to so appear for it; in which case the court acquires full jurisdiction over the corporation in the same manner as if the summons had been issued and served.

§ 2. Section six hundred and eighty-two of the Code of Criminal Procedure is hereby amended so as to read as follows:

§ 682. When a fine is imposed upon a corporation upon conviction, it may be collected in the same manner as a judgment in a civil action, and if an execution issued upon such judgment be returned unsatisfied, the district attorney of the county may thereupon bring an action in the name of the people of the state of New York, to procure a judgment sequestrating the property of the corporation, as provided by the Code of Civil Procedure. (*Thus amended by chap.* 219, *Laws* 1892.)

The Penal Code of the State of New York.

PORTIONS THEREOF APPLICABLE AND RELATING TO RAILROAD CORPORATIONS.

§ 13. Whenever in this code the punishment for crime is left undetermined between certain limits, the punishment to be inflicted in a particular case must be determined by the court authorized to pass sentence within such limits as may be prescribed by this code. In all cases where a corporation is convicted of an offense for the commission of which a natural person would be punishable with imprisonment, as for a felony, such corporation is punishable by a fine of not more than five thousand dollars. (*Thus amended by chap.* 218, *Laws* 1892.)

REFUSAL TO PERMIT EMPLOYES TO ATTEND ELECTION.

§ 41f. A person or corporation who refuses to an employe entitled to a vote at an election or town meeting, the privilege of attending thereat, as provided by the election law, or subjects such employe to a penalty or reduction of wages because of the exercise of such privilege, is guilty of a misdemeanor. (*Thus amended by chap.* 693, *Laws* 1892.)

§ 119. No sheriff of a county, mayor of a city, or officials, or other person authorized by law to appoint special deputy sheriffs, special constables, marshals, policemen or other peace officers in this state, to preserve the public peace or quell public disturbance, shall hereafter, at the instance of any agent, society, association or corporation, or otherwise, appoint as such special deputy, special constable, marshal, policeman or other peace officer, any person who shall not be a citizen of the United States and a resident of the state of New York, and entitled to vote therein at the time of his appointment, and resident of the same county as the mayor or sheriff or other official making such appointment; and no person shall assume or exercise the functions, powers, duties or privileges incident and belonging to the office of special deputy sheriff, special constables, marshal or policemen, or other peace officer, without having first received his appointment in writing from the authority lawfully

appointing him. Any person or persons who shall, in this state, without due authority, exercise, or attempt to exercise the functions of, or hold himself out to any one as a deputy sheriff, marshal, or policeman, constable or peace officer, or any public officer, or person pretending to be a public officer, who unlawfully, under the pretense or color of any process, arrests any person or detains him against his will, or seizes or levies upon any property, or dispossesses any one of any lands or tenements without a regular process therefor, or any person who knowingly violates any other provision of this section, is guilty of a misdemeanor. But nothing herein contained shall be deemed to effect, repeal or abridge the powers authorized to be exercised under sections one hundred and two, one hundred and four, one hundred and sixty-nine, one hundred and eighty-three, eight hundred and ninety-five, eight hundred and ninety-six and eight hundred and ninety-seven of the Code of Criminal Procedure; or under chapter three hundred and forty-six of the Laws of eighteen hundred and sixty-three, as amended by chapter two hundred and fifty-nine of the laws of eighteen hundred and sixty-six, and chapter one hundred and ninety-three of the laws of eighteen hundred and seventy-five; or under chapter two hundred and twenty-three of the laws of eighteen hundred and eighty; or under chapter five hundred and twenty-seven of the laws of eighteen hundred and seventy-three; or under chapter two hundred and five of the laws of eighteen hundred and seventy-five; but all places kept for summer resorts and the grounds of racing associations in the counties of New York, Kings and Westchester, are hereby exempted from the provisions of this act. (*Thus amended by chap.* 272, *Laws* 1892.)

COMPELLING EMPLOYES TO AGREE NOT TO JOIN ANY LABOR ORGANIZATION A MISDEMEANOR.

§ 171a. Any person or persons, employer or employers of labor, and any person or persons of any corporation or corporations on behalf of such corporation or corporations, who shall hereafter coerce or compel any person or persons, employe or employes, laborer or mechanic, to enter into an agreement, either written or verbal from such person, persons, employe, laborer or mechanic, not to join or become a member of any labor organization, as a condition of such person or persons securing employment, or continuing in the employment of any such person or persons, employer or employers, corporation or corporations, shall be deemed guilty of a misdemeanor. The penalty for such misdemeanor shall be imprisonment

in a penal institution for not more than six months, or by a fine of not more than two hundred dollars, or by both such fine and imprisonment. (*Chap.* 688, *Laws of* 1887.)

LIABILITY OF PERSONS IN CHARGE OF STEAM ENGINES.

§ 199. An engineer or other person having charge of a steam boiler, steam engine, or other apparatus for generating or applying steam, employed in a boat or railway, or in a manufactory, or in any mechanical works, who willfully, or from ignorance or gross neglect, creates, or allows to be created, such an undue quantity of steam as to burst the boiler, engine or apparatus, or to cause any other accident whereby the death of a human being is produced, is guilty of manslaughter in the second degree.

(3 R. S. 934, § 21; id. 973, § 31; 2 R. S. (Edm.) 717, § 25; 1 Whart. Cr. Law, § 362; see, also, §§ 362, 424, *post.*)

USE OF FORCE OR VIOLENCE, DECLARED NOT UNLAWFUL, ETC.

§ 223. To use or attempt, or offer to use, force or violence upon or toward the person of another, is not unlawful in the following cases:

* * * * * * * *

5. When committed by a carrier of passengers, or the authorized agents or servants of such carrier, or by any person assisting them, at their request, in expelling from a carriage, railway car, vessel or other vehicle, a passenger who refuses to obey a lawful and reasonable regulation prescribed for the conduct of passengers, if such vehicle has first been stopped and the force or violence used is not more than sufficient to expel the offending passenger, with a reasonable regard to his personal safety.

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SUNDAY LABOR.

§ 263. All labor on Sunday is prohibited excepting the works of necessity or charity. In works of necessity or charity is included whatever is needful during the day for the good order, health or comfort of the community.

MISMANAGEMENT OF STEAM BOILERS.

§ 362. An engineer or other person having charge of a steam boiler, steam engine or other apparatus for generating or employing steam employed in a railway, manufactory or other mechanical works, who, willfully or from ignorance or gross neglect, creates or allows

to be created such an undue quantity of steam as to burst the boiler, engine or apparatus, or cause any other accident whereby human life is endangered, is guilty of a misdemeanor.

(3 R. S. 973, § 31; see § 199, *ante*.)

INNKEEPERS AND CARRIERS REFUSING TO RECEIVE GUESTS AND PASSENGERS.

§ 381. A person who, either on his own account or as agent or officer of a corporation, carries on business as innkeeper, or as common carrier of passengers, and refuses, without just cause or excuse, to receive and entertain any guests, or to receive and carry any passengers, is guilty of a misdemeanor.

PROTECTING CIVIL AND PUBLIC RIGHTS.

§ 383. A person who

1. Excludes a citizen of this state, by reason of race, color or previous condition of servitude, from the equal enjoyment of any accommodation, facility or privileges furnished by innkeepers or common carriers, or by owners, managers or lessees of theatres or other places of amusement, or by teachers and officers of common schools and public instructions* of learning, or by cemetery associations; or

2. Denies or aids or incites another to deny to any other person because of race, creed or color, full enjoyment of any of the accommodations, advantages, facilities and privileges of any hotel, inn, tavern, restaurant, public conveyance on land or water, theatre or other place of public resort or amusement, is guilty of a misdemeanor, punishable by fine of not less than fifty dollars nor more than five hundred dollars. (*Thus amended by chap.* 692, *Laws* 1893.)

§ 389. A person who makes or keeps gunpowder, nitro-glycerine, or any other explosive or combustible material, within a city or village, or carries such materials through the streets thereof, in a quantity or manner prohibited by law or by ordinance of the city or village is guilty of a misdemeanor. And a person who, by the careless, negligent or unauthorized use or management of gunpowder or other explosive substance, injures, or occasions the injury of, the person or property of another, is punishable by imprisonment for not more than two years. Any person or persons who shall knowingly present, attempt to present, or causes to be presented or offered for shipment, to any railroad, steamboat, steamship, express or other company engaged as common carriers

* So in the original.

of passengers or freight, dynamite, nitro-glycerine, powder or other explosives dangerous to life or limb, without revealing the true nature of said explosives, or substance so offered or attempted to be offered to the company or carrier to which it shall be presented shall be guilty of a felony, and upon conviction shall be fined in any sum not exceeding one thousand dollars and not less than three hundred dollars or imprisonment in a state prison for not less than one nor more than five years or be subject to both such fine and imprisonment. (*As amended by chap.* 689, *Laws* 1887.)

UNLAWFUL ACTS OF AND NEGLECT OF DUTY BY RAILROAD OFFICIALS.

§ 416. An officer, agent, attorney or employe of a railroad corporation, who:

1. Offers a place, appointment, position or any other consideration to a railroad commissioner or to a secretary, clerk, agent, employe or expert employed by the board of railroad commissioners; or

2. After due notice, neglects or refuses to make or furnish any statement or report lawfully required by the board of railroad commissioners or willfully hinders, delays or obstructs such commissioners in the discharge of their official duties;

Is guilty of a misdemeanor. (*Thus amended by chap.* 692, *Laws* 1893.)

MISCONDUCT OF RAILROAD COMMISSIONERS AND OF THEIR EMPLOYES.

§ 417. Any railroad commissioner, or any secretary, clerk, agent, expert or other person employed by the board of railroad commissioners, who,

1. Directly or indirectly solicits or requests from or recommends to any railroad corporation, or to any officer, attorney or agent thereof, the appointment of any person to any place or position; or,

2. Accepts, receives or requests, either for himself or for any other person, any pass, gift or gratuity from any railroad corporation; or,

3. Secretly reveals to any railroad corporation, or to any officer, member or employe thereof, any information gained by him from any other railroad corporation; is guilty of a misdemeanor. (*Thus amended by chap.* 692, *Laws* 1892.)

PERSON UNABLE TO READ NOT TO ACT OR BE EMPLOYED AS ENGINEER.

§ 418. Any person unable to read the time tables of a railroad and ordinary handwriting, who acts as an engineer or runs a locomotive or train on any railroad in this state; or any person who, in his own behalf, or in the behalf of any other person or corporation, knowingly employs a person so unable to read to act as such engineer or to run any such locomotive, is guilty of a misdemeanor; or who employs a person as a telegraph operator who is under the age of eighteen years, or who has less than one year's experience in telegraphing, to receive or transmit a telegraphic message or train order for the movement of trains, is guilty of a misdemeanor. (*Thus amended by chap.* 892, *Laws* 1895.)

MISCONDUCT OF OFFICIALS OR EMPLOYES ON ELEVATED RAILROADS.

§ 419. Any conductor, brakeman, or other agent or employe of an elevated railroad, who :

1. Starts any train or car of such railroad, or gives any signal or order to any engineer or other person to start any such train or car, before every passenger therein who manifests an intention to depart therefrom by arising or moving toward the exit thereof, has departed therefrom; or before every passenger on the platform or station at which the train has stopped, who manifests a desire to enter the train, has actually boarded or entered the same, unless due notice is given by an authorized employe of such railroad that the train is full, and that no more passengers can then be received; or,

2. Obstructs the lawful ingress or egress of a passenger to or from any such car; or,

3. Opens a platform gate of any such car while the train is in motion, or starts such train before such gate is firmly closed; is guilty of a misdemeanor. (*Thus amended by chap.* 692, *Laws* 1892.)

INTOXICATION OR OTHER MISCONDUCT OF RAILROAD OR STEAMBOAT EMPLOYES.

§ 420. 1. Any person who, being employed upon any railway as engineer, conductor, baggagemaster, brakeman, switchtender, fireman, bridgetender, flagman, signalman, or having charge of stations, starting, regulating or running trains upon a railroad, or, being employed as captain, engineer or other officer of a vessel propelled by steam is intoxicated while engaged in the discharge of any such duties; or,

2. An engineer, conductor, brakeman, switchtender, or other officer, agent or employe of any railroad corporation, who willfully violates or omits his duty as such officer, agent or employe, by which human life or safety is endangered, the punishment of which is not otherwise prescribed; is guilty of a misdemeanor. (*Thus amended by chap.* 692, *Laws* 1892.)

FAILURE TO RING BELL, ETC.

§ 421. A person acting as engineer, driving a locomotive on any railway in this state, who fails to ring the bell, or sound the whistle, upon such locomotive, or cause the same to be rung or sounded, at least eighty rods from any place where such railway crosses a traveled road or street on the same level (except in cities), or to continue the ringing such bell or sounding such whistle at intervals, until such locomotive and the train to which the locomotive is attached shall have completely crossed such road or street, or any officer or employe of a corporation who shall willfully obstruct, or cause to be obstructed, any farm or highway crossing with any locomotive or car for a longer period than five consecutive minutes, is guilty of a misdemeanor. (*Thus amended by chap.* 358, *Laws of* 1891.)

PLACING PASSENGER CAR IN FRONT OF MERCHANDISE OR FREIGHT CAR.

§ 422. A person, being an officer or employe of a railway company, who knowingly places, directs or suffers a freight, lumber, merchandise, or oil car to be placed in rear of a car used for the conveyance of passengers in a railway train, is guilty of a misdemeanor. (*Thus amended, Laws of* 1889, *chap.* 267.)

PLATFORMS AND HEATING APPARATUS OF PASSENGER CARS.

§ 423. A railroad corporation, or any officer or director thereof having charge of its railroad, any person managing a railroad in this state, or any person or corporation running passenger cars upon a railroad into or through this state, who:

1. Fails to have the platforms or ends of the passenger cars run upon such railroad constructed in such manner as will prevent passengers falling between the cars while in motion; or,

2. Except temporarily, in case of accident or emergency, heats any passenger car, while in motion, on any such railroad more than fifty miles in length, except a narrow guage railroad which runs only mixed trains, between October fifteenth and May first, by any stove or furnace inside of or suspended from such car, except stoves of a

[illegible] approved by the board of railroad commissioners [illegible] and except within the ex- [illegible] commissioners in pursuance of [illegible] ; is guilty of a misde- [illegible] of 1892.)

[illegible] than employes, opera- [illegible] in the prolongation [illegible] so that in case of [illegible] receive the blow of [illegible]

[illegible] hundred and ninety-two, [illegible] cars, run or used in [illegible] automatic self-couplers, [illegible] freight car belonging [illegible] the same equipped, [illegible] with automatic self- [illegible] allowed by the board [illegible] for equipping such car [illegible] punishable by a fine [illegible] amended by chap. 692,

[illegible] TO WEAR UNIFORM

[illegible] agent or employe [illegible] of such company, [illegible] such officer, agent or [illegible] part thereof; or, [illegible] by a railway com- [illegible] other railway com- [illegible] or, [illegible] railway company without

[illegible] chap. 483, § 1.)

RIDING ON FREIGHT OR WOOD TRAINS; GETTING ON CAR OR TRAIN WHILE IN MOTION; OBSTRUCTING, ETC., HORSE OR STREET RAILROAD CARS; PUNISHMENT.

§ 426. Riding on freight trains,

1. A person who rides on any engine or any freight or wood car of any railway company, without authority or permission of the proper officers of the company or of the person in charge of said car or engine; or,

2. Who gets on any car or train while in motion (for the purpose of obtaining transportation thereon as passenger) or,

3. Who willfully obstructs, hinders or delays the passage of any car lawfully running upon any steam or horse or street railway;

Is guilty of a misdemeanor. (*As amended by chap.* 458, *Laws of* 1890.)

(Laws of 1871, chap. 261; Laws of 1879, chap. 474; Laws of 1880, chap. 370.)

LIGHTS UPON SWING BRIDGES.

§ 433a. A corporation, company or individual, owning, maintaining or operating a swing bridge across the Hudson river, who during the navigation season between sundown and sunrise, neglects to keep and maintain upon every such bridge the lights required by law, is guilty of a misdemeanor. (*This section added by chap.* 692, *Laws* 1893.)

ARSON IN FIRST DEGREE DEFINED.

§ 486. A person who willfully burns or sets fire in the night-time, either

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2. A car, vessel or other vehicle, or a structure or building other than a dwelling house, wherein, to the knowledge of the offender, there is at the time a human being;

Is guilty of arson in the first degree.

ARSON IN SECOND DEGREE.

§ 487. A person who,

* * * * * * * *

4. Willfully burns, or sets on fire, in the night-time, a car, vessel or other vehicle, or a structure or building, ordinarily occupied at night by a human being, although no person is within it at the time.

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ARSON IN THIRD DEGREE.

§ 488. A person who willfully burns, or sets on fire, either

1. A vessel, car, or other vehicle, or a building, structure or other erection, which is at the time insured against loss or damage by fire with intent to prejudice the insurer thereof; or,

2. A vessel, car or other vehicle, or a building, structure or other erection under circumstances not amounting to arson in the first or second degree.

BURGLARY IN THIRD DEGREE.

§ 498. A person who either,

1. With intent to commit a crime therein, breaks and enters a building, or room, or any part of a building; or,

2. Being in any building, commits a crime therein and breaks out of the same;

Is guilty of burglary in the third degree.

(3 R. S. 941, §§ 18, 19.)

"BUILDING" DEFINED.

§ 504. The term "building," as used in this chapter, includes a railway car, vessel, booth, tent, shop or other erection or inclosure.

UNLAWFULLY ENTERING BUILDING.

§ 505. A person who, under circumstances or in a manner not amounting to burglary, enters a building, or any part thereof, with intent to commit a felony or a larceny, or any malicious mischief, is guilty of a misdemeanor.

OTHER CASES OF FORGERY IN THIRD DEGREE.

§ 514. A person who, either,

1. Being an officer or in the employment of a corporation, association, partnership or individuals falsifies, or unlawfully and corruptly alters, erases, obliterates or destroys any accounts, books of accounts, records, or other writing, belonging to or appertaining to the business of the corporation, association or partnership or individuals; or,

2. Who, with intent to injure or defraud, shall falsely make, alter, forge or counterfeit, or shall cause, aid, abet, assist or otherwise connive at, or be a party to the making, altering, forging or counterfeiting, of any letter, telegram or other written com-

munication, paper, or instrument by which making, altering, forging or counterfeiting, any other person shall be in any manner injured in his good name, standing, position or general reputation; or,

3. Who shall alter, or who shall cause, aid, abet, or otherwise connive at, or be a party to the uttering of any letter, telegram, report or other written communication, paper or instrument purporting to have been written or signed by another person, or any paper purporting to be a copy of any such paper or writing where no original existed, which said letter, telegram, report or other written communication, paper or instrument, or paper purporting to be a copy thereof, as aforesaid, the person uttering the same shall know to be false, forged or counterfeited, and by the uttering of which the sentiments, opinions, conduct, character, prospects, interests or rights of such other person shall be misrepresented or otherwise injuriously affected; or,

4. With intent to defraud, shall forge, counterfeit or falsely alter and wrongfully utter any ticket, contract or other paper, or writing entitling or purporting to entitle, the person whose name appears therein, or the holder or bearer thereof, to entrance upon the grounds or premises of any membership corporation, or being thereupon, to remain upon such grounds or premises; or, with like intent, shall use any such ticket, contract or other paper or writing, to effect an entrance or as evidence of his right to remain upon such grounds or premises; or, with like intent, shall sell, exchange or deliver, or keep or offer for sale, exchange or delivery, or receive upon any purchase, exchange or delivery, any such ticket, contract or other paper or writing, knowing the same to have been forged, counterfeited or falsely altered, is guilty of forgery in the third degree. (*Thus amended by chap.* 692, *Laws* 1892.)

FORGING PASSAGE TICKETS.

§ 516. A person who, with intent to defraud, forges, counterfeits or falsely alters any ticket, cheque or other paper or writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon any railway or in any vessel or other public conveyance; and a person who, with like intent, sells, exchanges or delivers, or keeps or offers for sale, exchange or delivery, or receives upon any purchase, exchange or delivery, any such ticket, knowing the same to have been forged, counterfeited or falsely altered, is guilty of forgery in the third degree.

(3 R. S. 954, §§ 93, 94; Laws of 1860, p. 177, chap. 103.)

OFFICER OF CORPORATION SELLING, ETC., FORGED OR FRAUDULENT SCRIP, ETC.

§ 518. An officer, agent or other person employed by any company or corporation existing under the laws of this state, or of any other state or territory of the United States, or of any foreign government, who willfully and with a design to defraud, sells, pledges or issues, or causes to be sold, pledged or issued, or signs or procures to be signed with intent to sell, pledge or issue, or to be sold, pledged or issued, a false, forged or fraudulent paper, writing or instrument, being or purporting to be a scrip, certificate or other evidence of the ownership or transfer of any share or shares of the capital stock of such company or corporation, or a bond or other evidence of debt of such company or corporation, or a certificate or other evidence of the ownership or of the transfer of any such bond or other evidence of debt, is guilty of forgery in the third degree, and upon conviction, in addition to the punishment prescribed in this title for that offense, may also be sentenced to pay a fine not exceeding $3,000.

(3 R. S. 946, §§ 49, 50; § 591, *post.*)

FALSELY INDICATING PERSON AS CORPORATE OFFICER.

§ 519. The false making or forging of an instrument or writing purporting to have been issued by or in behalf of a corporation or association, state or government, and bearing the pretended signature of any person, therein falsely indicated as an agent or officer of such corporation, is forgery, in the same degree, as if that person were in truth such officer or agent of the corporation or association, state or government.

(3 R. S. 946, § 48; 2 R. S. (Edm.) 695, § 47; Laws of 1885, chap. 155.)

TERMS "FORGE" AND "FORGING."

§ 520. The expression "forge," "forged" and "forging," as used in this chapter, includes false making, counterfeiting and the alteration, erasure, or obliteration of a genuine instrument, in whole or in part, the false making or counterfeiting of the signature of a party or witness, and the placing or connecting together with intent to defraud different parts of several genuine instruments.

(3 R. S. 946, § 44.)

COMPLETED UNISSUED INSTRUMENTS PROPERTY (LARCENY).

§ 536. All the provisions of this chapter apply to cases where the property taken is an instrument for the payment of money, an evidence of debt, a public security, or a passage ticket, completed and

ready to be issued or delivered, although the same has never been issued or delivered by the maker thereof to any person as a purchaser or owner.

VALUE OF PASSENGER TICKET.

§ 546. If the thing stolen is a ticket, paper or other writing, entitling or purporting to entitle the holder or proprietor thereof to a passage upon a railway car, vessel or other public conveyance, the price at which a ticket entitling a person to a like passage is usually sold, is deemed the value thereof.

FRAUDS IN THE ORGANIZATION OF CORPORATIONS.

§ 590. A person who:

1. Without authority subscribes the name of another to or inserts the name of another in any prospectus, circular or other advertisement or announcement of any corporation or joint-stock association existing or intended to be formed, with intent to permit the same to be published, and thereby to lead persons to believe that the person whose name is so subscribed is an officer, agent, member or promoter of such corporation or association; or,

2. Signs the name of a fictitious person to any subscription for or agreement to take stock in any corporation, existing or proposed; or,

3. Signs to any such subscription or agreement in the name of any person, knowing that such person does not intend in good faith to comply with the terms thereof, or under any understanding or agreement, that the terms of such subscription or agreement are not to be complied with or enforced; is guilty of a misdemeanor. (*Thus amended by chap.* 692, *Laws* 1892.)

§ 591. An officer, agent or other person in the service of any joint-stock company or corporation formed or existing under the laws of this state, or of the United States, or of any state or territory thereof, or of any foreign government or country, who willfully and knowingly, with intent to defraud, either:

1. Sells, pledges or issues, or causes to be sold, pledged or issued, or signs or executes, or causes to be signed or executed with intent to sell, pledges or issues, or causes to be sold, pledged or issued, any certificate or instrument purporting to be a certificate or evidence of the ownership of any share or shares of such company or corporation, or any bond or evidence of debt, or writing purporting to be a bond or evidence of debt of such company or corporation without being first thereto duly authorized by such company or cor-

poration, or contrary to the charter or laws under which such corporation or company exists, or in excess of the power of such company or corporation or of the limit imposed by law or otherwise upon its power to create or issue stock or evidences of debt; or,

2. Reissues, sells, pledges or disposes of, or causes to be reissued, sold, pledged or disposed of, any surrendered or canceled certificates, or other evidence of the transfer or ownership of any such share or shares, is punishable by imprisonment for a term not exceeding seven years, or by a fine not exceeding three thousand dollars, or by both. (*Thus amended by chap.* 662, *Laws* 1892.)

§ 592. An officer, agent or clerk of a corporation, or of persons proposing to organize a corporation, or to increase the capital stock of a corporation, who knowingly exhibits a false, forged or altered book, paper, voucher, security or other instrument of evidence to any public officer or board authorized by law to examine the organization of such corporation, or to investigate its affairs, or to allow an increase of its capital, with intent to deceive such officer or board in respect thereto, is punishable by imprisonment in a state prison not exceeding ten years. (*Thus amended by chap.* 662 *Laws* 1892.)

MISCONDUCT OF DIRECTORS OF STOCK CORPORATIONS.

§ 594. A director of a stock corporation, who concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended,

1. To make a dividend, except from the surplus profits arising from the business of the corporation, and in the cases and manner allowed by law; or,

2. To divide, withdraw, or in any manner pay to the stockholders or any of them, any part of the capital stock of the corporation; or to reduce such capital stock without the consent of the legislature; or,

3. To discount or receive any note or other evidence of debt in payment of an installment of capital stock actually called in, and required to be paid, or with intent to provide the means of making such payment; or,

4. To receive or discount any note or other evidence of debt with intent to enable any stockholder to withdraw any part of the money paid in by him on his stock; or,

5. To apply any portion of the funds of such corporation, except surplus, profits, directly or indirectly, to the purchase of shares of its own stock; or,

6. To receive any such shares in payment or satisfaction of a debt due to such corporations; or,

7. To receive in exchange for the shares, notes, bonds, or other evidences of debt of such corporation, shares of the capital stock or notes, bonds or other evidences of debt issued by any other stock corporation engaged in another line of business, unless authorized by law to make such exchange. (*Thus amended by chap.* 692, *Laws* 1892.)

§ 602. A director, officer or agent of any corporation or joint-stock association, who knowingly receives or possesses himself of any property of such corporation or association, otherwise than in payment of a just demand, and with intent to defraud, omits to make, or cause or direct to be made, a full and true entry thereof, in the books or accounts of such corporation or association; and a director, officer, agent or member of any corporation or joint-stock association who, with intent to defraud, destroys, alters, mutilates, or falsifies any of the books, papers, writings or securities belonging to such corporation or association, or makes or concurs in making any false entry, or omits or concurs in omitting to make any material entry in any book of accounts, or other record or document kept by such corporation or association, is punishable by imprisonment in a state prison not exceeding ten years, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment. (*Thus amended by chap.* 662, *Laws of* 1892.)

OFFICER OF CORPORATION PUBLISHING FALSE REPORTS OF ITS CONDITION.

§ 603. A director, officer or agent of any corporation or joint-stock association, who knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false, other than such as are elsewhere, by this code, specially made punishable, is guilty of a misdemeanor.

(Laws of 1874, chap. 440, §§ 1, 2; §§ 607 and 608 repealed by chapter 377, Laws of 1884.)

DIRECTORS OF CORPORATION PRESUMED TO HAVE KNOWLEDGE OF ITS AFFAIRS.

§ 609. A director of a corporation or joint-stock association must be deemed to have such a knowledge of the affairs of the corporation or association as to enable him to determine whether any act, proceeding or omission of its directors, is a violation of this chapter.

(2 R. S. 299, § 14.)

MISCONDUCT OF OFFICERS AND DIRECTORS OF STOCK CORPORATIONS.

§ 610. An officer or director of a stock corporation who:

1. Issues, participates in issuing, or concurs in a vote to issue any increase of its capital stock beyond the amount of the capital stock thereof, duly authorized by or in pursuance of law; or,

2. Sells, or agrees to sell, or is directly or indirectly interested in the sale of any share of stock of such corporation, or in any agreement to sell the same, unless at the time of such sale or agreement he is an actual owner of such share, is guilty of a misdemeanor, punishable by imprisonment for not less than six months, or by a fine not exceeding five thousand dollars, or by both. (*Thus amended by chap.* 692, *Laws* 1892.)

MISCONDUCT OF OFFICERS AND EMPLOYES OF CORPORATIONS.

§ 611. A director, officer, agent or employe of any corporation or joint-stock association who:

1. Knowingly receives or possesses himself of any of its property otherwise than in payment for a just demand, and with intent to defraud, omits to make or to cause or direct to be made, a full and true entry thereof in its books and accounts; or,

2. Concurs in omitting to make any material entry thereof; or,

3. Knowingly concurs in making or publishing any written report, exhibit or statement of its affairs or pecuniary condition, containing any material statement which is false; or,

4. Having the custody or control of its books, willfully refuses or neglects to make any proper entry in the stock book of such corporation as required by law, or to exhibit or allow the same to be inspected, and extracts to be taken therefrom by any person entitled by law to inspect the same or to take extracts therefrom. (*Thus amended by chap.* 692, *Laws* 1893.)

5. If a notice of an application for an injunction affecting the property or business of such joint-stock association or corporation is served upon him, omits to disclose the fact of such service and the time and place of such application to the other directors, officers and managers thereof; or,

6. Refuses or neglects to make any report or statement lawfully required by a public officer; is guilty of a misdemeanor. (*Thus amended by chap.* 692, *Laws* 1892.)

MISCONDUCT OF CORPORATE ELECTIONS.

§ 613. Any person who:

1. Votes or issues a proxy to vote at any meeting of the stockholders or bondholders, or both, of a stock corporation, upon any stock or bond, if the person in whose behalf such vote is given shall not then have the title to the stock represented by such certificate or to such bond, and shall not have it in his possession and control, notwithstanding such stock or bond shall then stand on the books of such corporation in the name of the person in whose behalf such vote is given; or,

2. Being entitled to vote at such meeting, sells his vote or issues a proxy to vote to any person for any sum of money or thing of value; or,

3. Acts as an inspector of election at any such meeting and violates an oath taken by him, in pursuance of law as such inspector, or violates the provisions of an oath required by law to be taken by him as such inspector, or is guilty of any dishonest or corrupt conduct as such inspector, is guilty of a misdemeanor. (*Thus amended by chap.* 692, *Laws* 1892.)

PRESUMPTION OF KNOWLEDGE OF CORPORATE CONDITION AND BUSINESS AND OF ASSENT THERETO BY DIRECTORS; DEFINITION.

§ 614. It is no defense to a prosecution for a violation of the provisions of this chapter, that the corporation is a foreign corporation, if it carries on business or keeps an office therefor in this state. The term "director" as used in this chapter includes any of the persons having, by law, the direction or management of the affairs of a corporation, by whatever name described. A director of a corporation or joint-stock association is deemed to have such a knowledge of the affairs of the corporation or association as to enable him to determine whether any act, proceeding or omission of its directors is a violation of this chapter. If present at a meeting of the directors at which any act, proceeding or omission of such directors in violation of this chapter occurs, he must be deemed to have concurred therein, unless he at the time causes or in writing requires his dissent therefrom to be entered on the minutes of the directors. If absent from such meeting, he must be deemed to have concurred in any such violation, if the facts constituting such violation appear on the record or minutes of the proceedings of the board of directors, and he remains a director of the corporation for six months there-

after without causing or in writing requiring his dissent from such violation to be entered on such record of minutes. (*Thus amended by chap.* 692, *Laws* 1892.)

(§ 615 repealed; Laws, 1882.)

SALE BY AUTHORIZED AGENTS RESTRICTED.

§ 616. No person, except as allowed in section 622, shall ask, take or receive any money or valuable thing as a consideration for any passage or conveyance upon any vessel or railway train, or for the procurement of any ticket or instrument, giving or purporting to give a right, either absolutely or upon a condition or contingency, to a passage or conveyance upon a vessel or railway train, or a berth or state-room on a vessel, unless he is an authorized agent within the provisions of the last section; nor shall any person, as such agent sell or offer to sell any such ticket, instrument, berth or state-room, or ask, take or receive any consideration for any such passage, conveyance, berth or state-room, excepting at the office designated in his appointment, nor until he has been authorized to act as such agent according to the provisions of the last section, nor for a sum exceeding the price charged at the time of such sale by the company, owners or consignees of the vessel or railway mentioned in the ticket. But a person who shall have purchased a ticket in good faith for his own passage, and shall have been prevented from using the same, may sell the ticket at any price not greater than the regular rate established therefor to another person in good faith for his own use.

(Laws of 1860, chap. 103, § 2; Laws of 1857, chap. 470. § 1; Laws of 1868, chap. 820; Laws of 1876, chap. 201.)

UNAUTHORIZED PERSONS FORBIDDEN TO SELL CERTIFICATES, RECEIPTS, ETC., FOR THE PURPOSE OF PROCURING TICKETS.

§ 617. No person other than an agent appointed, as provided in section 615, shall sell, or offer to sell, or in any way attempt to dispose of any order, certificate, receipt or other instrument, for the purpose or under the pretence, of procuring any ticket or instrument mentioned in section 615, upon any company or line, vessel or railway train therein mentioned. And every such order sold or offered for sale by any such agent must be directed to the company, owners or consignees of their office.

(Laws of 1860, chap. 103, § 3; Laws of 1857, chap. 470; Laws of 1868, chap. 820: Laws 1876, chap. 201.)

§ 618. A person guilty of a violation of any of the provisions of the preceding sections of this chapter is punishable by imprisonment

in a state prison not exceeding two years, or imprisonment in a county jail not exceeding six months. (*Thus amended by chap.* 662, *Laws of* 1892.)

CONSPIRING TO SELL PASSAGE TICKETS IN VIOLATION OF LAW.

§ 619. All persons who conspire together to sell, or attempt to sell, to any person, any passage ticket, or other instrument mentioned in sections 615 and 616, in violation of those sections, and all persons who by means of any such conspiracy, obtain or attempt to obtain, any money or other property, under the pretence of procuring or securing any passage or right of passage in violation of this chapter, are punishable by imprisonment in a state prison not exceeding five years.

(Laws of 1860, chap. 103, § 5; Laws of 1857, chap. 470; Laws of 1868, chap. 840; Laws of 1870, chap. 103, § 5; Laws of 1870, chap. 423.)

CONSPIRATORS MAY BE INDICTED, NOTWITHSTANDING OBJECT OF CONSPIRACY HAS NOT BEEN ACCOMPLISHED.

§ 620. Persons guilty of violating the last section may be indicted and convicted for a conspiracy, though the object of such conspiracy has not been executed.

(Laws of 1860, chap. 103, § 6; Laws of 1870, chap. 423, § 6; see § 171.)

OFFICES KEPT FOR UNLAWFUL SALE OF PASSAGE TICKETS, DECLARED DISORDERLY HOUSES.

§ 621. All offices kept for the purpose of selling passage tickets in violation of any of the provisions of this chapter, and all offices where any such sale is made, are deemed disorderly houses; and all persons keeping any such office, and all persons associating together for the purpose of violating any of the provisions of this chapter are punishable by imprisonment in a county jail for a period not exceeding six months. (*Thus amended by chap.* 662, *Laws of* 1892.)

STATION MASTERS, CONDUCTORS, ETC., ALLOWED TO SELL TICKETS.

§ 623. The provisions of this chapter do not prevent the station master or other ticket agent upon any railway from selling in his office at any station on such railway, any passage tickets upon such railway; nor do they prevent any conductor upon a railway from selling such tickets upon the trains of such railway.

EMIGRANTS · SALES AND EXCHANGES OF PASSENGER TICKETS.

§ 626. A person who,

1. Sells, or causes to be sold, a passage ticket, or order for such ticket, on any railway, vehicle or vessel, to any emigrant passenger at a higher rate than one and a quarter cents per mile; or,

2. Takes payment for any such ticket or order for a ticket under a false representation as to the class of the ticket, whether emigrant or first-class; or,

3. Directly or indirectly, by means of false representations, purchases or receives from an emigrant passenger any such ticket; or,

4. Procures or solicits any such passenger having such a ticket to exchange the same for another passenger ticket, or to sell the same and purchase some other passenger ticket; or,

5. Solicits or books any passenger arriving at the port of New York from a foreign country before such passenger has left the vessel on which he has arrived, or enters or goes on board any vessel arriving at the port of New York from a foreign country, having emigrant passengers on board, for the purpose of soliciting or booking such passengers; and a person or agent of a corporation employing any person for the purpose of booking such passengers before leaving the ship;

Is guilty of a misdemeanor.

(1 R. S. 1087, §§ 78, 79, 81; Laws of 1853, chap. 218, §§ 7, 8, 9; Laws of 1855, chap. 474, §§ 1, 3, 4.)

"COMPANY" DEFINED.

§ 627. The term "company," as used in this chapter, includes all corporations, whether created under the laws of this state or of the United States, or those of any other state or nation.

(Laws of 1860, chap. 103, § 13.)

BY PIPE-LINE CORPORATIONS.

§ 628. A pipe-line corporation, or a person being the officer, agent, manager or representative thereof, who,

1. Accepts, makes or issues any receipt, certificate or order of any kind for any commodity, unless the commodity represented is actually at the time in the possession of the corporation; or,

2. Delivers to any person any petroleum or other commodity received for transportation by such corporation without the presentation and surrender of all vouchers, receipts, orders or certificates that have been issued or accepted for the same; or,

3. Having parted with the possession of any commodity and having received therefor an order, voucher, receipt or certificate shall reissue the same, or shall not cause it to be canceled by the word "canceled" stamped or printed legibly across the face thereof, and to be filed and recorded by such corporation, as provided by law;

Is guilty of a misdemeanor. (*Thus amended by chap.* 692, *Laws* 1892.)

ISSUING FICTITIOUS BILLS OF LADING, RECEIPTS AND VOUCHERS.

§ 629. A person who,

1. Being the master, owner, or agent of any vessel, or officer or agent of any railway, express or transportation company, or otherwise being or representing any carrier, who delivers any bill of lading, receipt or other voucher, by which it appears that merchandise of any kind has been shipped on board a vessel, or delivered to a railway, express or transportation company, or other carrier, unless the same has been so shipped or delivered and is at the time actually under the control of such carrier, or the master, owner or agent of such vessel, or of some officer or agent of such company, to be forwarded as expressed in such bill of lading, receipt or voucher; or,

2. Carrying on the business of a warehouseman, wharfinger or other depository of property, who issues any receipt, bill of lading or other voucher for merchandise of any kind which has not been actually received upon the premises of such person, and is not under his actual control at the time of issuing such instrument whether such instrument is issued to a person as being the owner of such merchandise, or as security for any indebtedness; is guilty of a misdemeanor, punishable by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both. (*Thus amended by chap.* 692, *Laws of* 1892.)

ERRONEOUS BILLS OF LADING ON RECEIPTS ISSUED IN GOOD FAITH EXCEPTED.

§ 630. No person can be convicted of an offense under the last two sections for the reason that the contents of any barrel, box, case, cask or other vessel or package mentioned in the bill of lading receipt or other voucher did not correspond with the description given in each instrument of the merchandise received, if such description corresponds substantially with the marks, labels or brands upon the outside of such vessel or package, unless it appears that the defendant knew that such marks, labels or brands were untrue.

DUPLICATE RECEIPT MUST BE MARKED "DUPLICATE."

§ 631. A person mentioned in sections 628 and 629, who issues any second or duplicate receipt or voucher of a kind specified in those sections at a time while a former receipt or voucher for the merchandise specified in such second receipt is outstanding and uncanceled, without writing across the face of the same the word "duplicate," in a plain and legible manner, is punishable by imprisonment not exceeding one year, or by a fine not exceeding $1,000, or by both.

SELLING, HYPOTHECATING OR PLEDGING PROPERTY RECEIVED FOR TRANSPORTATION OR STORAGE.

§ 632. A person mentioned in sections 628 and 629, who sells or pledges any merchandise for which a bill of lading, receipt or voucher has been issued by him without the consent in writing thereto of the person holding such bill, receipt or voucher, is punishable by imprisonment not exceeding one year, or by a fine not exceeding $1,000, or by both.

(2 R. S. 229, § 4; Laws of 1858, chap. 326: Laws of 1859, chap. 353; Laws of 1866; chap. 440.)

PROPERTY DEMANDED BY PROCESS OF LAW.

§ 634. The last two sections (§§ 632 and 633) do not apply to any case where property is demanded by virtue of legal process

(2 R. S. 229, § 8.)

INJURIES TO RAILROAD TRACKS, ET CETERA.

§ 635. A person who:

1. Displaces, removes, injures or destroys any rail, sleeper, switch, bridge, viaduct, culvert, embankment, or structure, or any part thereof attached, appertaining to or connected with any railway, whether operated by steam, horses, or other motive power, or

2. Places any obstruction upon the track of any such railway; or

3. Willfully destroys or breaks any guard erected or maintained by a railroad corporation as a warning signal for the protection of its employes; or

4. Willfully discharges a loaded firearm, or projects or throws a stone or other missile at a railway train, or at a locomotive, car or vehicle standing or moving upon a railway; or

5. Willfully displaces, removes, cuts, injures or destroys any wire, insulator, pole, dynamo, motor, locomotive, or any part thereof, attached, appertaining to or connected with any rail-

way operated by electricity, or willfully interferes with or interrupts any motive power used in running such road, or willfully places any obstruction upon the track of such railroad, or willfully discharges a loaded firearm, or projects or throws a stone or any other missile at such railway train or locomotive, car or vehicle, standing or moving upon such railway; or,

6. Removes a journal-brass from a car while standing upon any railroad track in this state, without authority from some person who has a right to give such authority, is punished as follows: First, if thereby the safety of any person is endangered, by imprisonment for not more than ten years. Second, in every other case by imprisonment for not more than three years or by a fine of not more than two hundred and fifty dollars or both. (*Thus amended by chap.* 726, *Laws* 1895.)

ALTERING, ETC., SIGNAL OR LIGHT FOR RAILWAY ENGINE OR TRAIN.

§ 638. A person who, with intent to bring a vessel, railway engine or railway train into danger, either,

1. Unlawfully or wrongfully shows, masks, extinguishes, alters or removes a light or other signal; or,

2. Exhibits any false light or signal;

Is punishable by imprisonment for not more than ten years.

ENDANGERING LIFE BY MALICIOUSLY PLACING EXPLOSIVE NEAR BUILDING, CAR, ETC.

§ 645. A person who places in, upon, under, against or near to, any building, car, vessel or structure, gunpowder or any other explosive substance, with intent to destroy, throw down or injure the whole or any part thereof, under such circumstances, that if the intent were accomplished, human life or safety would be endangered thereby, although no damage is done, is guilty of a felony

(See §§ 201, 389, 636.)

§ 654. A person who unlawfully and willfully destroys or injures any real or personal property of another or who without authority or permission from a person who has the right to give such authority or permission, loosens any brake or blocking of any car standing on any railroad track in this state, or without like authority or permission, puts upon or runs any hand car, or other car, on any railroad track in this state, or without like authority or permission, interferes or meddles with any brake or coupling of any car while standing or moving on any railroad track in this state, or

takes any part therein, in a case where the punishment is not specially prescribed by statute, is punishable as follows:

1. If the value of the property destroyed, or the diminution in the value of the property by the injury is more than twenty-five dollars, by imprisonment for not more than four years.

2. In any other case, by imprisonment for not more than six months, or by a fine of not more than two hundred and fifty dollars, or by both such fine and imprisonment.

3. And in addition to the punishment described therefor, he is liable in treble damages for the injury done, to be recovered in a civil action by the owner of such property, or the public officer having charge thereof. (*Thus amended by chap.* 186, *Laws of* 1892.)

CARRYING ANIMALS IN A CRUEL MANNER, A MISDEMEANOR.

§ 659. A person who carries, or causes to be carried in or upon any vessel or vehicle or otherwise, any animal in a cruel or inhuman manner, or so as to produce torture, is guilty of a misdemeanor.

(3 R. S. 974, § 38; Laws of 1880, chap. 209; Laws of 1867, chap. 375, § 5; § 663, *post.*)

THROWING SUBSTANCE INJURIOUS TO ANIMALS IN PUBLIC PLACES, A MISDEMEANOR.

§ 661. A person who willfully throws, drops or places, or causes to be thrown, dropped or placed upon any road, highway, street or public place, any glass, nails, pieces of metal, or other substance which might wound, disable or injure any animal, is guilty of a misdemeanor.

TRANSPORTING ANIMALS FOR MORE THAN TWENTY-FOUR CONSECUTIVE HOURS, A MISDEMEANOR.

§ 663. A railway corporation, or an owner, agent, consignee, or person in charge of any horse, sheep, cattle, or swine, in the course of, or for transportation, who confines, or causes or suffers the same to be confined, in cars for a longer period than twenty-four consecutive hours, without unloading for rest, water and feeding, during ten consecutive hours, unless prevented by storm or inevitable accident, is guilty of a misdemeanor. In estimating such confinement, the time during which the animals have been confined without rest, on connecting roads from which they are received, must be computed. If the owner, agent, consignee or other person in charge of any such animals refuses or neglects upon demand to pay for the care or feed of the animals while so unloaded or

rested, the railway company, or other carriers thereof, may charge the expense thereof to the owner or consignee and shall have a lien thereupon for such expense.

(3 R. S. 974, § 38; Laws of 1866, chap. 560, § 1.)

DEFINITIONS.

§ 669. 1. The word "animal," as used in this title, does not include the human race, but includes every other living creature;

2. The word "torture" or "cruelty" includes every act, omission, or neglect whereby unjustifiable physical pain, suffering or death is caused or permitted;

3. The words "impure and unwholesome milk" include all milk obtained from animals in a diseased or unhealthy condition, or who are fed on a distillery waste, usually called "swill," or upon any substance in a state of putrefaction or fermentation.

(3 R. S. 976, § 51; Laws of 1874, chap. 12, § 8; Laws of 1862, chap. 467, § 4.)

ENDANGERING LIFE BY REFUSAL TO LABOR.

§ 673. A person who willfully and maliciously, either alone or in combination with others, breaks a contract of service or hiring, knowing or having reasonable cause to believe, that the probable consequence of his so doing will be to endanger human life, or to cause grievous bodily injury, or to expose valuable property to destruction or serious injury, is guilty of a misdemeanor.

See also §§ 168, 170 and 653.

§ 675. Any person who shall by any offensive or disorderly act or language, annoy or interfere with any person or persons in any place or with the passengers of any public stage, railroad car, ferry boat, or other public conveyance, or who shall disturb or offend the occupants of such stage, car, boat or conveyance, by any disorderly act, language or display, although such act, conduct or display may not amount to an assault or battery, shall be deemed guilty of a misdemeanor. A person who willfully and wrongfully commits any act which seriously injures the person or property of another, or which seriously disturbs or endangers the public peace or health, or which openly outrages public decency, for which no other punishment is expressly prescribed by this code, is guilty of a misdemeanor; but nothing in this code contained shall be so construed as to prevent any person from demanding an increase of wages, or from assembling and using all lawful means to induce employers to pay such wages to all persons employed by them, as shall be a just and fair compensation for services rendered. (*Thus amended, chap.* 327, *Laws of* 1891.)

Rapid Transit Act.

CHAP. 4, LAWS OF 1891, AS AMENDED BY CHAP. 556, LAWS OF 1892, CHAP. 752, LAWS OF 1894, AND CHAP. 519, LAWS OF 1895.

AN ACT to provide for rapid transit railways in cities of over one million inhabitants.

COMMISSIONERS OF RAPID TRANSIT; APPOINTMENTS; BOARD CONSTITUTED; VACANCIES.

SECTION 1. In each city having over one million of inhabitants, according to the last preceding national or state census, there shall be a board of rapid transit railroad commissioners in and for such city, which shall consist of the mayor of such city, the comptroller or other chief financial officer of such city, the president of the chamber of commerce of the state of New York, by virtue of his office, and the following named persons, to wit: William Steinway, Seth Low, John Claflin, Alexander E. Orr and John H. Starin. The members of said board shall be styled commissioners, of rapid transit. Vacancies which may take place in the offices so held by the persons specifically named herein as such commissioners shall be filled by a majority vote of the remaining members of said board. The board thus constituted shall have and exercise the specific authority and powers hereinafter conferred and also such other and necessary powers as may be requisite to the efficient performance of the duties imposed upon said board by this act. (*Thus amended by chap.* 752, *Laws* 1894.)

OATH OF COMMISSIONERS.

§ 2. Each of the said commissioners other than the mayor and comptroller or other chief financial officer of such city shall take and subscribe an oath faithfully to perform the duties of his office, which oath shall be filed in the office of the clerk of any county within which there shall be a city of the class mentioned in the first section of this act. (*Thus amended by chap.* 752, *Laws* 1894.)

FIRST MEETING OF BOARD; BY-LAWS AND RULES; QUORUM; RECORD OF PROCEEDINGS.

§ 3. Within twenty days after the filing of the oaths of said commissioners so required to make and file the same the commissioners of rapid transit in respect to each of such cities shall meet and organize as a board. The board when so organized, may frame and adopt by-laws not inconsistent with this act, and establish suitable rules and regulations for the proper exercise of the powers and duties hereby conferred and imposed, and may, from time to time, amend the same. Four members of the board shall constitute a quorum for the transaction of business, but a less number may adjourn meetings. The said board shall adopt a seal, and keep a record of its proceedings, which shall be a public record and be open to inspection at all reasonable times. (*Thus amended by chap.* 752, *Laws* 1894.)

BOARD TO DETERMINE NECESSITY OF RAILWAYS AND TO FIX ROUTES; GENERAL PLAN OF CONSTRUCTION, ETC.

§ 4. The said board upon its own motion may proceed, from time to time, to consider and determine whether it is for the interest of the public and of the city in which it is appointed, that a rapid transit railway or railways for the conveyance and transportation of persons and property should be established therein, and upon the request in writing of the local authorities of any such city at any time, the said board shall proceed forthwith to consider and determine the same questions, and in each case the said board shall conduct such an inquest and investigation as may be deemed necessary in the premises. If, after such consideration and inquest, the said board shall determine that a rapid transit railway or railways, in addition to any already existing, are necessary for the interest of the public, and such city, it shall proceed to determine and establish the route or routes thereof and the general plan of construction. Such general plan shall show the general mode of operation and contain such details as to manner of construction as may be necessary to show the extent to which any street, avenue or other public place is to be encroached upon and the property abutting thereon affected, and the concurrent votes of at least six members of the board shall be necessary for the purpose of determining and establishing such route or routes and plan of construction. The said board, from time to time, may locate the route or routes of such railway or railways over, under, upon, through and across any streets, avenues and lands within such city, including blocks between streets

or avenues or, partly over, under, upon, through and across any streets, avenues and lands within such city and partly through blocks between streets or avenues; provided that the consent of the owners of one-half in value of the property bounded on and the consent also of the local authorities having control of that portion of a street or highway, upon which it is proposed to construct or operate such railway or railways be first obtained, or in case the consent of such property owners can not be obtained, that the determination of three commissioners appointed by the general term of the supreme court in the district of the proposed construction, given after due hearing of all parties interested, and confirmed by the court, that such railway or railways ought to be constructed or operated, be taken in lieu of the consent of such property owners; except that no public park nor any lands or places, lawfully set apart for, or occupied by, any public building of any city or county, or of the state of New York, or of the United States, nor those portions of Grand, Classon, Franklin avenues and Downing street in the city of Brooklyn, lying between the southerly line of Lexington avenue and northerly line of Atlantic avenue, nor that portion of Classon avenue in said city lying between the northerly line of Lexington avenue and southerly line of Park avenue, nor that portion of Washington avenue in said city lying between Park and Atlantic avenues, nor DeBevoise place, Irving place and Lefferts place, Lee avenue, Nostrand avenue, Waverly avenue, Vanderbilt avenue and Clinton avenue in said city of Brooklyn, nor that portion of the city of Buffalo lying between Michigan and Main streets, nor any part of Fifth avenue in the city of New York, nor that portion of any street or avenue which is now actually occupied by any elevated railroad structure, shall be occupied by any corporation to be organized under the provisions of this act for the purpose of constructing a railway in or upon any of such public parks, lands or places, or upon or along either of the said excepted streets or avenues. It shall be lawful for said commissioners to locate the route of a railway or railways, by tunnel under any such public parks, lands or places, and to locate the route of any railway to be built, under this act, across any of the streets and avenues now occupied by an elevated railroad structure in the city of New York, or across any of the streets or avenues excepted in this act at any point at which, in its discretion, the board of rapid transit railroad commissioners may deem necessary in the location of any route or routes, or under, or under and along, any of said streets or avenues now so occupied or so excepted in this act. Nothing in this act shall authorize the con-

on of an elevated railway on Broadway south of Thirty-third or on Madison avenue in the city of New York. It shall not to grant, use or occupy, for the purposes of an elevated ad, except for the purpose of crossing the same, any portion of e following named streets and places in the city of New York, that is to say : Second avenue below Twenty-third street ; Fourteenth street, between the easterly line or side of Seventh avenue, and the westerly side of Fourth avenue; nor Eleventh street, west of Seventh avenue, nor any part of Bank street; Nassau street; Printing House square, so called, south of Franklin street; Park row, south of Tryon row; Broad street and Wall street. (*Thus amended by chap.* 519, *Laws of* 1895.)

TRANSMISSION OF PLANS, ETC.; APPROVAL AND CONSENT OF COUNCIL; CONSENT OF LEGAL AUTHORITIES, ETC.

§ 5. After any determination by said board of any such route or routes and of any general plan of construction of said railway or railways, the said board shall transmit to the common council of said city a copy of said plans and conclusions as adopted. It shall be the duty of such common council upon receiving such copy of plans and conclusions to appoint a day not less than one week nor more than ten days after the receipt thereof for the consideration of such plans and conclusions, and the said common council shall, on the day so fixed, proceed with the consideration thereof and may continue and adjourn such consideration, from time to time, until a final vote shall be taken thereon, as hereinafter provided. Within four weeks after the copy of such plans and conclusions adopted by the board of rapid transit railroad commissioners shall have first been received by said common council, a final vote shall be taken thereon, by ayes and nays, in the form of a vote upon a resolution to approve such plans and conclusions, and to consent to the construction of a railway or railways in accordance therewith. Upon the adoption of such a resolution by a majority vote of all the members of the common council and the approval of the mayor, and in the case of the refusal or failure of the mayor to approve such resolution, then by a two-thirds vote of all the members of the common council, the said plans and conclusions shall be deemed to have been finally consented to and adopted, and such consent shall be deemed to be the consent of the local authorities of such city; provided, that where in any such city the exclusive control of any street, road, highway or avenue which is to be used or occupied by any railway or railways constructed under the provisions of this act, is by law vested

in any local authority other than the common council of such city, the approval of the aforesaid plans and conclusions and the consent to the construction of a railway thereunder shall be given by such local authority in place of and if required in addition to such approval and consent by said common council and with like effect. Upon obtaining the approval and consent of the local authorities as above provided, the said board of rapid transit railroad commissioners shall also, unless such approval and consent of local authorities shall have been refused, take the necessary steps to obtain, if possible, the said consents of the property owners along the line of the said route or routes. For the purposes of this act the value of the property bounded on that portion of any street or highway in, upon, over or under which it is proposed to construct or operate such railway or railways, or any part thereof, shall be ascertained and determined from the assessment-roll of the city in which the said property is situated, confirmed or completed last before the local authorities shall have given their consent as above provided. If such consents of property owners can not be obtained, the said board may, in its own name, make application to the general term of the supreme court in the judicial district in which such railway is to be constructed for the appointment of three commissioners to determine and report after due hearing whether such railway ought to be constructed and operated. Two weeks' notice of such application shall be given by daily publication thereof, Sundays and holidays excepted, in six daily newspapers published in the city where such proposed railway is to be constructed, if there be so many newspapers published in said city, and if not, then in all the daily newspapers published in said city. The newspapers in which said publication shall be made shall be designated by the general term of the supreme court to which such application is to be made on the application of the commissioners without notice. The said general term, upon due proof of the publication aforesaid, shall appoint three disinterested persons who shall act as commissioners, and such commissioners within ten days after their appointment shall cause public notice to be given in the manner directed by the said general term of their first sitting, and may adjourn from time to time until all their business is completed. Vacancies in such commission may be filled by said general term after such notice to persons interested as the general term may deem proper, and the evidence taken before as well as after such vacancy occurred shall be deemed to be properly before such commissioners. The said commissioners shall determine after public hearing of all parties interested whether such railroad ought to be

constructed and operated and shall report the evidence taken to said general term, together with a report of their determination whether such road ought to be constructed and operated, which report, if in favor of the construction and operation of such road, shall, when confirmed by said court, be taken in lieu of the consent of the property owners above mentioned. Such report shall be made within sixty days after the appointment of said commissioners, unless the said court, or a judge thereof, shall extend such time. (*Thus amended by chap.* 519, *Laws* 1895.)

DETAILED PLAN; SUBWAYS FOR PIPES AND WIRES; WORK AT POINTS OF SUB-SURFACE STRUCTURES; EXPENSES, HOW PAID.

§ 6. When the consents of the local authorities and the property owners, or, in lieu thereof, the authorization of the said general term of the supreme court upon the report of commissioners, shall have been obtained, the board of rapid transit railroad commissioners shall at once proceed to prepare detailed plans and specifications for the construction of such rapid transit railway or railways in accordance with the general plan of construction, including all devices and appurtenances deemed by it necessary to secure the greatest efficiency, public convenience and safety, including the number, location and description of stations and plans and specifications for suitable supports, turnouts, switches, sidings, connections, landing-places, buildings, platforms, stairways, elevators, telegraph and signal devices, and other suitable appliances incidental and requisite to what the said board may approve as the best and most efficient system of rapid transit in view of the public needs and requirements, and the said board may in its discretion include in said plans, provisions for subways or tunnels for sewer, gas or water pipes, electric wires and other conductors proper to be placed under ground, whenever necessary so to do, in order to permit of the proper construction of any railway herein provided for in accordance with the plans and specifications of the said board. Stations and station approaches may be under or over streets of the route or cross-streets. The board may from time to time, alter such detail plans and specifications, but always so that the same shall accord with the general plan of construction; but whenever a contract shall have been made for the construction of any railway herein provided for, no such alteration shall be made by the board without the consent of the contractor and his sureties, except as liberty shall have been reserved in such contract by said

board for such alteration. Whenever the construction of any railway, depressed way, subway or tunnel under the provisions of this act shall interfere with, disturb or endanger any sewer, water pipe, gas pipe, or other duly authorized sub-surface structure, the work of construction at such points shall be conducted in the city of New York in accordance with the reasonable requirements of the commissioner of public works, and in other cities in accordance with the reasonable requirements and under the supervision of the officer or local authority having the care of, and the jurisdiction or control over, such sub-surface structures so interfered with, disturbed or endangered. All expenses incidental to such supervision and to the work of reconstructing, readjusting and supporting any such sewer, water pipe, gas pipe, or other duly authorized sub-surface structure, shall be borne and paid by the company which shall have acquired the right, privilege and franchise to construct, maintain and operate such railway, pursuant to a sale of the same at public auction, as hereinafter provided, if any such sale shall he made by said board. (*Thus amended by chap.* 519, *Laws of* 1895.)

PUBLIC SALE OF FRANCHISE; NOTICE THEREOF; TERMS AND CONDITIONS; SUPERVISION OF BOARD AND ENGINEERS; DEPOSITS BY BIDDERS; NULLITY OF BIDS AND RIGHTS THEREUNDER; TIME FOR BEGINNING AND FINISHING ROADS; FORFEITURE AND RESALE OF FRANCHISE; TERMS AS TO ORGANIZATION OF CORPORATION, ETC.; REJECTION AND ACCEPTANCE OF BIDS; TERMS ON RESALES; ADJOURNMENTS; TERM OF FRANCHISE; PROVISO AS TO EXTENSION.

§ 7. If, after having secured the necessary consents and after having prepared such detailed plans and specifications as are by this act provided for, it shall not have been determined by vote of the people as provided by sections twelve and thirteen of chapter seven hundred and fifty-two of the laws of eighteen hundred and ninety-four, that such railway or railways shall be constructed for and at the expense of such city as hereafter provided, said board shall sell at public auction in the city where said railway or railways are to be built and for the account and benefit of said city the right, privilege and franchise to construct, maintain and operate such railway or railways. Notice of the time and place of such sale shall be published three times a week for at least six successive weeks in at least three daily newspapers published in said city. The board may prescribe all such terms and conditions of sale as it may deem to be for the interest of the public and of the city in which the railway or

railways are to be constructed. The advertisement of sale shall contain only so much of the said terms, plans and specifications for the construction as the said board may think proper, but such advertisement must state at what place the full terms, plans and specifications may be examined, and they shall be subject to examination under such reasonable rules and regulations as the board may prescribe. The terms of sale shall provide for the construction of the railway or railways under the supervision of the board, and for the approval of an engineer or engineers to be appointed, from time to time, by the board, and the corporation or corporations to be organized for the purpose of construction and operating such railway or railways as in this act provided shall pay such engineer or engineers such salary as may, from time to time, be fixed by the said board of rapid transit railroad commissioners. Such engineer or engineers shall hold their office at the pleasure of the said board. The terms of sale shall require the successful bidder to deposit with the comptroller or chief fiscal officer of the city, in cash or approved securities, such amount as the board may deem sufficient to constitute a guarantee of full compliance with the terms of sale by the purchaser and by the corporation to be formed for the purpose of building and operating said railway as hereinafter provided. Said bids and all rights which may have been acquired thereunder shall become null and void and of no effect, at the option of said board, should there be a failure to organize a corporation to exercise such rights, privileges and franchises as required by said terms of sale and this act, or for any violation of any of the requirements of said terms of sale which should be complied with before such corporation is organized, and thereupon any deposit which may have been made pursuant to such terms of sale shall be paid into the treasury of such city upon a certificate being made and filed by said board with the public officer with whom such deposit shall have been made, that said bid, and all rights which may have been acquired thereunder, have become null and void and of no effect; and said rights, privileges and franchises shall be again sold by said board, subject to all the provisions of this act regulating such sales. The terms of sale shall require the construction of the road to be begun within a time to be specified in said terms of sale, and to be finished within a certain time thereafter, to be specified therein, and may prescribe the time within which portions of the same shall be begun and finished. The said terms of sale may reserve to the board the power to extend the times for the commencement and completion of the construction of said railway, or of portions of the same, if, in

its discretion, the said board deem such extension to be for the best interests of the city. In case the corporation formed for the purpose of constructing said railway shall fail to begin or finish the construction within the times for those purposes respectively limited, all rights, privileges and franchises of such corporations to maintain and operate said railway shall be forfeited, and upon such forfeiture being adjudged by the court in a suit brought for that purpose in the name of the mayor, aldermen and commonalty of the city of New York, or such other appropriate corporate title of said city or by said board of rapid transit railroad commissioners, then the said board shall have power to advertise and resell said rights, privileges and franchises and so much of the road as shall have been constructed by such corporation; such suit shall have preference over all other cases in all courts; and the proceeds of such resale shall be applied first to the payment of the expenses of the resale, and then to the discharge of any liens which may have been created upon such property, and the balance shall be paid over to the said corporation. The terms of sale must provide for the organization by the purchaser or purchasers of such rights, privileges and franchises of a corporation to exercise the same, and to construct, maintain and operate such rapid transit railway or railways, with the powers and subject to the duties and liabilities granted or imposed by this act. The said terms of sale must also specify the amount of the capital of any such corporation, and number of shares of capital stock which such corporation shall be authorized to issue, the percentage to be paid in cash by the subscribers on subscribing for such shares, the maximum amount of the bonded indebtedness which such corporation be authorized to incur, and which may be secured by mortgage upon its property and franchises, and the rates of fares and freights which such corporation may charge and collect for the carriage of persons and property. But the rate of fare for any passenger on said railway from any point on the same northward or southward within the city of New York shall not exceed five cents under any provision of this act. The said board may, if it considers that the public interests requires it to do so, reject all bids and re-advertise the said rights, privileges and franchises for sale, with the same or different terms of sale, as often as it may deem necessary in the interests of such city, and shall finally accept that bid, which under all circumstances, in its opinion, is most advantageous to the public and such city; and no bid shall be accepted without the concurrent vote of six members of the board. The terms of sale on any such resale must contain all the provisions required by this act to be

inserted in the original terms of sale. Such sale may be adjourned from time to time at the discretion of the board. All sales of such rights, privileges and franchises shall be made for a definite term of years, but the expiration of the term, if sold for a term of years, shall not impair any mortgage or other lien upon the property of such corporation or the rights of any creditor or creditors of such corporation; provided, however, that nothing herein contained shall be so construed as to extend the term for which such rights, privileges, franchises are sold. (*Thus amended by chap.* 519, *Laws* 1895.)

RESALE OF FRANCHISE AFTER EXPIRATION OF TERM; PURCHASERS; NEW CORPORATION.

§ 8. Within one year, and not less than six months prior to the expiration of any term for which such rights, privileges and franchises shall have been sold, said board shall proceed to resell the right to maintain and operate the said railway. Such sale shall be made in the manner prescribed for the original sale, and the board is empowered to make suitable provisions for securing to the corporation then operating such railway or railways suitable compensation for the railroad structure and appurtenances, and for any other property, real or personal which the said corporation may own or of which it may be vested at the expiration of the term for which such rights, privileges and franchises were sold. Any corporation theretofore organized under the provisions of this act may be a purchaser on such resale; but if no such corporation be the purchaser, a new corporation shall be formed to maintain and operate said road in the manner prescribed for the organization of the corporation on the original sale, except that the plans and specifications according to which said railway has been constructed need not be set out at large, but may be referred to as forming part of the articles of association of said new corporation.

OFFICES AND ASSISTANTS FOR BOARD, ETC.

§ 9. The said board may rent such offices and employ such engineers, attorneys and other persons, from time to time, as it may, in its discretion, deem necessary to the proper performance by it of its duties as in this act prescribed. It may sue in the name and behalf of the city for which it acts as a board. It may in the name of and in behalf of the said city bring action of specific performance or may apply by mandamus to compel the performance within its city by any corporation or person of any duty or obligation with reference to or aris-

ing out of the construction or operation of any railroad under, or by reason of, any grant made or right acquired under this act or the acts amendatory hereof or supplementary hereto, or out of or by reason of any contract made or authorized by any board of rapid transit commissioners within its city, or it may in behalf of and in the name of said city bring actions to recover damages for any violation of contract or duty, or for any wrong committed by any such corporation or person by reason of any non-performance or violation of duty under the provisions of this act, or under any contract or stipulation made in pursuance of any provisions of this act. Every action or proceeding brought by the said board, and every action or proceeding in which an injunction is had or sought against the board or the said city, or against any corporation or person who or which shall have entered into a contract under the provisions of this act, or any act supplementary hereto, or amendatory hereof, by reason of any act or thing done, proposed or threatened under or by virtue of any provision of this act, or any act supplementary hereto, or amendatory hereof, or is sought against any corporation or person claiming or claiming to act under any grant or franchise under this act, or any act supplementary hereto, or amendatory hereof, and every action or proceeding in which the constitutionality of any part of this act, or of any act supplementary hereto, or amendatory hereof, shall or may be brought in question, shall have a preference above all causes not criminal on the calendar of every court, and may be brought on for trial or argument upon notice of eight days for any day of any term on which the court shall be in session. (*Thus amended by chap.* 519, *Laws* 1895.)

APPROPRIATIONS FOR BOARD; PROCEEDINGS UPON FAILURE TO APPROPRIATE AMOUNT; LIABILITY OF CITY; AUDIT AND PAYMENT OF EXPENDITURES; REVENUE BONDS, ISSUE OF, ETC.; REPAYMENT OF EXPENSES; COMPENSATION OF COMMISSIONERS; STATED IN TERMS OF SALE

§ 10. The board of estimate and apportionment or other board or public body on which is imposed the duty, and in which is vested the power, of making appropriations of public moneys for the purposes of the city government in any city in which it is proposed to construct such railway or railways shall, from time to time, on requisition duly made by the board of rapid transit railroad commissioners, appropriate such sum or sums of money as may be requisite and necessary to properly enable it to do and perform, or cause to be done and performed, the duties herein prescribed, and to provide for the compensation of such commissioners, and such appropriation shall be made

forthwith upon presentation of a requisition from the board of rapid transit railroad commissioners, which shall state the purposes for which such moneys are required by the said board. In case the said board of estimate and apportionment or such other board or public body fail to appropriate such amount as the board of rapid transit railroad commissioners deem requisite and necessary, the said board of rapid transit railroad commissioners may apply to the general term of the supreme court in the department in which the railway is to be or has been constructed, on notice to the board of estimate and apportionment, or such other board or public body aforesaid, to determine what amount shall be appropriated for the purposes required by this section, and the decision of said general term shall be final and conclusive; and no city shall be liable for any indebtedness incurred by the said board of rapid transit railroad commissioners in excess of such appropriation or appropriations. It shall be the duty of the auditor and comptroller of any such city, after such appropriations shall have been duly made, to audit and pay the proper expenditures and compensation of said commissioners upon vouchers therefor, to be furnished by the said commissioners, which payments shall be made in like manner as payments are now made by the auditor, comptroller, or other public officers, of claims against and demands upon such city; and for the purpose of providing funds with which to pay the said sums, the comptroller or other chief financial officer of said city is hereby authorized and directed to issue and sell revenue bonds of such city in anticipation of receipts of taxes, and out of the proceeds of such bonds to make the payments in this section required to be made. The amount necessary to pay the principal and interest of such bonds shall be included in the estimates of moneys necessary to be raised by taxation to carry on the business of said city, and shall be made a part of the tax levy for the year next following the year in which such appropriations are made. All expenses of the said board of rapid transit railroad commissioners, including the compensation of said commissioners, so incurred and paid by any city as in this section provided, and for which any city shall be liable, shall be repaid, with interest, by the bidder or bidders at the public sale of the rights, privileges and franchises, as in this act provided, in case said board shall so sell the same, whose bid shall be accepted by the board of rapid transit railroad commissioners, and the terms of such sale shall specify the time when such payment shall be made, as well as the amount thereof. The commissioners, other than the mayor and comptroller or other chief financial officer

of such city, shall be paid a reasonable compensation for the duties performed by them from time to time, under the provisions of this act. The amount of such compensation shall be determined by the general term of the supreme court in the department in which said city shall be located upon application by said board after notice to the mayor of such city. (*Thus amended by chap.* 752, *Laws* 1894.)

CORPORATIONS, HOW ORGANIZED; ARTICLES OF ASSOCIATION; APPROVAL AND FILING THEREOF; SUBSCRIPTIONS TO STOCK; MEETING OF SUBSCRIBERS; PREFERENCE IN SUBSCRIPTIONS, ETC.

§ 11. A corporation or corporations to construct and operate such rapid transit railway or railways, and to enjoy and exercise the rights, privileges and franchises in this act provided for shall be created and organized in the manner following: Articles of association shall be duly signed and acknowledged by not less than twenty-five persons, and such articles shall set forth the name of the proposed corporation and duration thereof. Said articles must also state that they are made and filed under and in pursuance of this act for the purpose of taking and exercising the rights, privileges and franchises so purchased as aforesaid, according to the terms of sale; and such terms of sale and all plans and specifications must be made a part of said articles, annexed thereto and filed therewith. The said articles must also contain such other provisions as the said board may deem requisite and necessary, not inconsistent with the terms of sale or with this act. The said articles must be approved by said board, by the concurrent vote of four members, and its approval must be indorsed thereon and attested by the seal of the board and the signature of its presiding officer, and must then be filed in the office of the secretary of state, and a duly certified copy, or a duplicate thereof, must be filed in the office of the clerk of the county in which such railway or railways are to be constructed. Immediately after the articles of association shall have been so made, approved and filed, the board of rapid transit railroad commissioners shall cause books of subscription to the capital stock of any such corporation to be opened, and shall give public notice of the opening of such books and of the time and place at which subscriptions will be received; and when the full amount of such capital stock shall have been subscribed by not less than fifty persons, and such percentage of the amount subscribed as may have been fixed by the board in the terms of sale shall have been paid in, in cash, to such bank or trust company as the board may select, the said board shall call a meeting

of the subscribers for the purpose of organizing the corporation, serving upon or mailing to each subscriber a notice of such meeting at least ten days before the time appointed for holding the same; and the person or persons whose bid shall have been accepted by the said board of rapid transit railroad commissioners shall, if they elect to become subscribers to the capital stock of such corporation, be entitled to a preference for themselves and their associates in subscribing for, and in the allotment of the shares of capital stock of such corporation.

ELECTION OF FIRST DIRECTORS; BY-LAWS TO BE ADOPTED.

§ 12. At such meeting of subscribers thirteen directors of the corporation shall be elected, each of whom shall be a holder in his own right of at least one hundred shares of the capital stock of the corporation, and the board of rapid transit railroad commissioners shall appoint the the* inspectors of the first election. Each share of stock shall entitle the holder to one vote for each director. The directors so selected shall hold office for one year and until others are elected in their places. At such meeting by-laws must be adopted not inconsistent with this act, which by-laws shall, among other things, provide for:

1. The term of office of the directors elected at any subsequent meeting of stockholders, which term shall not exceed one year.
2. The manner of filling any vacancy which may occur in any office or in the board of directors.
3. The time and place of the annual meeting of stockholders.
4. The manner of calling and holding special meetings of stockholders.
5. The number of stockholders who shall attend either in person or by proxy, at any stockholders' meeting in order to constitute a quorum.
6. The officers of a corporation, the manner of their election by the directors, and their duties and powers, and among which officers there shall be included a president, a secretary and a treasurer.
7. The manner of electing or appointing inspectors of election.
8. The manner of amending the by-laws.

The by-laws may also provide for the forfeiture of shares for the non-payment of calls and for such other matters as may be deemed proper by the board of rapid transit railroad commissioners and they must be approved by a resolution of said board.

* So in the original.

RECORD OF PROCEEDINGS; CERTIFICATE OF ORGANIZATION; RECORD AND CERTIFICATE TO BE FILED; PAYMENT OF DEPOSIT TO CORPORATION; REPAYMENT TO PURCHASER OF FRANCHISE.

§ 13. Within ten days after the said subscribers' meeting a record of the proceedings thereof, containing a copy of the subscription list, a copy of the by-laws adopted, and the names of the directors chosen, shall be prepared and duly certified by the person presiding over, and person acting as secretary of said meeting. There shall be attached thereto a certificate of the board of rapid transit railroad commissioners, attested by its seal and the signature of its presiding officer, that said board has approved the by-laws adopted at the subscribers' meeting, and that said corporation has been organized in accordance with the provisions of this act. The said record and certificate shall be filed by said board in the office of the secretary of state, and a duly certified copy or duplicate thereof shall be filed in the office of the clerk of the county in which said railway or railways are to be built, and thereupon and upon the payment to the state treasurer of a tax of one-eighth of one per centum of the par value of the capital stock of said corporation, such corporation shall be deemed to be fully organized. A copy of said certificate, duly certified by the secretary of state, or by the county clerk in whose office it is filed, shall be presumptive evidence of the due organization of such corporation in all courts and proceedings. Upon the production of the certified copy of said certificate, and upon the order of such corporation, the bank or trust company in which the percentage of subscriptions to the capital stock shall have been deposited, shall pay over to any such corporation the amount of such deposit, and said corporation shall repay to the purchaser or purchasers at the sale provided for in section seven of this act, the expenses paid by him or them to the city pursuant to the provisions of the terms of sale, with interest to the date of such repayment.

MODIFICATION OF PLANS, ETC.; CERTIFICATES THEREOF; FILING OF CERTIFICATE AND MODIFIED PLAN.

§ 14. The said board of rapid transit railroad commissioners, if, in their judgment, the public interest requires, may, at any time after the full organization of any such corporation, by the concurrent vote of four members, authorize such corporation to alter or add to the detailed plans and specifications contained in its articles of association, provided the plans and specifications as so modified do not change the route or routes of said railway and be not inconsistent

with the general plan of construction, adopted under the provisions of section four of this act, and provided also such modifications be first approved by a vote of two-thirds of the directors of said corporation present and voting at any special meeting duly called for the purpose, by written notice stating the nature of the business to be transacted at said meeting. When such authorization by the board of rapid transit railroad commissioners shall have been given, a certificate shall be prepared, and acknowledged by the president and a majority of the directors of said corporation, stating the nature of the modification, and that the same has been approved by the board of directors in the manner above set forth, to which certificate there shall be attached a copy of so much of the original plans and specifications as are to be affected by the modification, and also the plans and specifications as modified. There shall also be contained in such certificate a declaration of the approval of said board of rapid transit railroad commissioners, attested in the same manner as the certificate of full organization. The said certificate, plans and specifications shall then be filed in the office of the secretary of state, and a certified copy or duplicate thereof shall be filed in the office of the clerk in which the articles of association are filed. And thereupon said corporation shall be authorized to construct its railway or railways and appurtenances in accordance with such modified plans and specifications.

PRINCIPAL OFFICE AND PLACE OF TAXATION.

§ 15. Every corporation organized under this act shall have its principal office and be taxed on its property in the city where its railway or railways are situated. But no taxes of any kind or nature shall be levied or imposed upon that portion of any railway constructed under this act which is in process of construction, and not in actual operation for the transportation of passengers or freight, but this exemption from taxation during construction shall not apply to any portion or portions of said railway after the date on which said portion or portions shall have been opened to the public for the transportation of passengers or freight. (*Thus amended by chap.* 556, *Laws* 1892.)

BOARD OF DIRECTORS; VACANCIES AND QUALIFICATIONS; EXHIBITION OF BOOKS.

§ 16. The affairs of said corporation shall be managed by a board of thirteen directors, who shall be chosen annually, by a majority of the votes of the stockholders voting at such election, in such manner as may be prescribed in the by-laws of the corporation, and they may and shall continue to be directors until others are elected in their places. In the

election of directors, each stockholder shall be entitled to one vote for each share of stock held by him. Vacancies in the board of directors shall be filled in such manner as shall be prescribed by the by-laws of the corporation. No person shall be a director unless he shall be a stockholder owning one hundred shares of stock absolutely in his own right, and qualified to vote for directors at the election at which he shall be chosen. At every election of directors the books and papers of such corporation shall be exhibited to the meeting, provided a majority of the stockholders present shall require it.

PAYMENT OF SUBSCRIPTION TO STOCK.

§ 17. The directors shall require the subscribers to the capital stock of the company to pay the amount by them respectively subscribed in money at such times and in such installments as they may deem proper, not inconsistent with the by-laws and the articles of association.

PERSONAL LIABILITY OF STOCKHOLDERS; NOTICE AND COMMENCEMENT OF ACTION; RECOVERY BY STOCKHOLDER.

§ 18. Each stockholder of any corporation formed under this act shall be individually liable to the creditors of such corporation, to an amount equal to the amount unpaid on the stock held by him, for all the debts and liabilities of such corporation, until the whole amount of the capital stock so held by him shall have been paid to the corporation; and all the stockholders of any such corporation, shall be jointly and severally liable for the debts due or owing to any of its laborers and servants, other than contractors, for personal services, for thirty days' service performed for such corporation, but shall not be liable to an action therefor before an execution or executions shall be returned unsatisfied in whole or in part against the corporation, and the amount due on such execution or executions shall be the amount recoverable, with costs, against such stockholders; before such laborer or servant shall charge such stockholder for such thirty days' service, he shall give him notice in writing within twenty days after the performance of such service, that he intends so to hold him liable, and he shall commence such action therefor within thirty days after the return of such execution unsatisfied, as above mentioned; and every such stockholder against whom any such recovery by such laborer or servant shall have been had, shall have a right to recover the same of the other stockholders in said corporation, in ratable proportion to the amount of the stock they shall respectively hold.

TRANSFER OF STOCK.

§ 19. The stock of every corporation formed under this act shall be deemed personal estate, and shall be transferable in the manner prescribed

by the by-laws of the company, but no share shall be transferable until all previous calls thereon shall have been fully paid in.

INCREASE OR REDUCTION OF CAPITAL; NOTICE TO STOCKHOLDERS; STATEMENT TO BE MADE AND FILED.

§ 20. Any corporation formed under this act may increase or reduce its capital stock from time to time upon obtaining the approval of the board of rapid transit railroad commissioners by a concurrent vote of four members thereof. Such increase or reduction must be approved by a vote in person, or by proxy, of two-thirds in amount of all the stockholders of the corporation, at a meeting of such stockholders called by the directors of the corporation for that purpose, by a notice in writing to each stockholder, to be served on him in the manner provided for service of the notice of the subscribers' meetings provided for in section eleven of this act. Such notice shall state the time and place of the meeting, and its object, and the amount to which it is proposed to increase or reduce the capital stock. A statement of the increase or reduction shall be signed by the president and a majority of the directors and shall be filed in the office of the secretary of state and of the clerk of the county in which the original articles of association are filed. There must be attached thereto a certificate of the approval of said board of rapid transit railroad commissioners attested in the same manner as the certificate of full organization.

LIABILITY OF CERTAIN HOLDERS OF STOCK.

§ 21. No person holding stock in any such corporation, as executor, administrator, guardian or trustee, and no person holding such stock as collateral security, shall be personally subject to any liability as a stockholder of such corporation; but the person pledging such stock shall be considered as holding the same, and shall be liable as a stockholder accordingly; and the estate and funds in the hands of such executor, administrator, guardian or trustee shall be liable in like manner, and to the same extent, as the testator or intestate or the ward or person interested in such trust fund would have been if he had been living and competent to act, and held the same stock in his own name.

LIABILITY OF CORPORATION TO EMPLOYE; OF CONTRACTORS; NOTICE TO BE GIVEN; ACTION WHEN COMMENCED.

§ 22. As often as any contractor for the construction of any part of a railway, which is in progress of construction under the provisions of this act, shall be indebted to any laborer for thirty or any less number of days' labor performed in constructing said road, such laborer may give notice of such indebtedness to said corporation in the manner herein

provided; and said corporation shall thereupon become liable to pay such laborer the amount so due him for such labor, and an action may be maintained against said corporation therefor. Such notice shall be given by said laborer to said corporation within twenty days after the performance of the number of days' labor for which the claim is made. Such notice shall be in writing, and shall state the amount and number of days' labor, and the time when the same was performed and the name of the contractor from whom due, and shall be signed by such laborer or his attorney, and shall be served on an engineer, agent or superintendent employed by such corporation having charge of the section of the road on which such labor was performed personally, or by leaving the same at the office or usual place of business of such engineer, agent or superintendent with some person of suitable age. But no action shall be maintained against any corporation under the provisions of this section, unless the same be commenced within thirty days after notice is given to such company by such laborer as above provided.

REAL ESTATE; PROCEEDINGS TO ACQUIRE TITLE.

§ 23. Every such corporation shall have the right to acquire and hold such real estate or easement or other interest therein, or rights appertaining thereto, as may be necessary to enable it to construct, maintain and operate the said railway, or railways, and such as may be necessary for stations, depot, engine-house, car-houses, machine-shops and other appurtenances specified in the articles of association; and in case any such corporation can not agree with the owner or owners of such property it shall have the right to acquire title to the same in pursuance of the terms of and in the manner prescribed in title one of chapter twenty-three of the Code of Civil Procedure, known as the condemnation law.

CORPORATE POWERS; VOLUNTARY GRANTS; PURCHASE OF PROPERTY; MAY CROSS AND UNITE WITH OTHER ROADS; COMPENSATION; TRANSPORTATION OF PERSONS AND PROPERTY; ENTRY UPON STREETS, ETC.; CONSTRUCTION AND MAINTENANCE OF ROAD; EXCAVATIONS: PARKS AND STREETS, USE OR OCCUPANCY OF; RIGHT TO BORROW MONEY AND ISSUE BONDS.

§ 24. Every corporation formed under this act shall have power:

1. To take and hold such voluntary grants of real estate and other property as shall be made to it, to aid in the construction, maintenance and accommodation of its railway or railways, but the real estate received by voluntary grant shall be held and used for the purpose of such grant only

2. To purchase, lease, hold and use all such real estate and other property as may be necessary for the construction and maintenance of its railway or railways, and the stations or other accommodations necessary to accomplish the objects of its incorporation; but nothing herein contained shall be held as repealing or in any way affecting the act, entitled, "An act authorizing the construction of railroads upon Indian lands," passed May twelve, eighteen hundred and thirty-six.

3. To cross, intersect, join and unite its railway or railways with any other railway at any point on its route and upon the grounds of such other railway company, with the necessary turnouts, sidings and switches and other conveniences in furtherance of the object of its connections. And every corporation whose railway is or shall be hereafter intersected by any new railway, shall unite with the owners of such new railway in forming such intersections and connections, and grant the facilities aforesaid; and if the two corporations cannot agree upon the amount of compensation to be made therefor, the same shall be ascertained and determined by commissioners to be appointed by the court, in the manner provided in this act in respect to acquiring title to real estate. And if the two corporations cannot agree upon the points and manner of such crossings and connections, the board of rapid transit railroad commissioners shall determine the same on the application of either corporation.

4. To take and convey persons and property on its railway or railways by the power or force of steam, or by any motor other than animal power, and to receive compensation therefor not inconsistent with the provisions of this act, and the terms of sale under which the said corporation shall have acquired its rights, privileges and franchises.

5. To enter upon and underneath the several streets, avenues, public places and lands designated by the said board of rapid transit railroad commissioners, and enter into and upon the soil of the same; to construct, maintain, operate and use, in accordance with the plan adopted by said board, a railway or railways upon the route or routes, and to the points decided upon, and to secure the necessary foundations and erect the columns, piers and other structures which may be required to secure safety and stability in the construction and maintenance of the railways constructed upon the plan adopted by the same board, and which may be necessary for operating the same, except that nothing in this act shall authorize the construction of a railway crossing the track of any steam railway in actual operation at the grade thereof, and it shall be lawful to make such excavations and openings along the route through which such railway or railways shall be constructed as shall be necessary from time to time; in all cases the surfaces of said streets around such foundations, piers and columns shall be restored to the

condition in which they were before such excavations were made, as near as may be, and under the direction of the proper local authorities; and in all cases the use of streets, avenues, places and lands designated by the said board, and the right of way through the same, for the purpose of a railway or railways, as herein authorized and provided, shall be considered, and is hereby declared to be a public use, consistent with the uses for which the roads, streets, avenues and public places are publicly held; but no such corporation shall have the right to acquire the use or occupancy of public parks or squares in such county, or the use or occupancy of any of the streets or avenues, except such as may have been designated for the route or routes of such railway, and except such temporary privileges as the proper authorities may grant to such corporations to facilitate such construction.

6. From time to time to borrow such sums of money as may be necessary for completing and finishing or operating their railroad, and to issue and dispose of their bonds for such purposes; but the amount of such bonds outstanding at any one time shall not exceed the amount limited by the articles of association. (*Thus amended by chap.* 556, *Laws of* 1892.)

EMPLOYES TO WEAR BADGES.

§ 25. Every conductor, baggage master, engineer, brakeman or other servant of any railroad corporation employed in a passenger train, or at stations for passengers, shall wear upon his hat or cap a badge, which shall indicate his office, and the initial letter of the style of the corporation by which he is employed. No conductor or collector, without such badge, shall be entitled to demand or receive from any passenger any fare or ticket, or to exercise any of the powers of his office; and no officer or servant without such badge shall have authority to meddle or interfere with any passenger, his baggage or property.

CARRYING OF MAILS; EXTRA TRAINS THEREFOR.

§ 26. Any corporation or person operating a railroad under any provision of this act or of any act supplementary hereto or amendatory hereof shall, when applied to by the postmaster-general, convey the mails of the United States on their road or roads respectively; and in case the parties cannot agree as to the rate of transportation therefor, and as to the time, rate of speed, manner and conditions of carrying the same, it shall be lawful for the governor of this state to appoint three commissioners, who, or a majority of them, after fifteen days' notice in writing of the time and place of meeting to the corporation, shall determine and fix the prices, terms and conditions aforesaid; but such price shall not be less

for carrying said mails in the regular passenger trains than the amount which such corporation would receive as freight on a like weight of merchandise transported in their merchandise trains, and a fair compensation for the post-office car. And in case the postmaster-general shall require the mail to be carried at other hours, or at a higher speed than the passenger trains are run, the corporation shall furnish an extra train for the mail and be allowed an extra compensation for the expenses and wear and tear thereof, and for the service to be fixed as aforesaid. (*Thus amended by chap.* 519, *Laws of* 1895.)

EJECTION OF PASSENGERS FROM CARS.

§ 27. If any passenger shall refuse to pay his fare, it shall be lawful for the conductor of the train and the servants of the corporation to put him and his baggage out of the cars, using no unnecessary force, at any usual stopping place, on stopping the train.

RUNNING OF CARS AND CONVEYANCE OF FREIGHT AND PASSENGERS.

§ 28. Every such corporation shall start and run its cars for the transportation of passengers and property at regular times, to be fixed by public notice; and shall furnish sufficient accommodations for the transportation of all such passengers and property as shall, within a reasonable time previous thereto, be offered for transportation at the place of starting and the junction of other railroads, and at usual stopping places established for receiving and discharging way passengers and freight for that train; and shall take, transport and discharge such passengers and property at, from and to such places, on the due payment of the freight or fare legally authorized therefor, and shall be liable to the party aggrieved in an action for damages, for any neglect or refusal in the premises.

INTOXICATION OF EMPLOYES.

§ 29. If any person shall, while in charge of a locomotive engine running upon the railway of any such corporation, or while acting as the conductor of a car or train of cars on any such railroad, be intoxicated, he shall be deemed guilty of a misdemeanor.

§ 30. If any person or persons shall willfully do, or cause to be done, any act or acts whatever, whereby any building, construction or work of or on any part of any railroad either constructed or operated under any provision of this act or of any act supplementary hereto or amendatory hereof, or under any provision of any contract made under this act or any act supplementary hereto or amendatory hereof, or any engine, machine or structure, or any matter or thing appertaining to the same,

shall be stopped, obstructed, impaired, weakened, injured, or destroyed, the person or persons so offending shall be guilty of a misdemeanor, and shall forfeit and pay to the owner of such building, construction, works, engine, machine, structure, matter or thing treble the amount of damages sustained in consequence of such offense. (*Thus amended by chap.* 519, *Laws of* 1895.)

DISSOLUTION BY LEGISLATURE.

§ 31. The legislature may, at any time annul or dissolve any corporation formed under this act; but such dissolution shall not take away or impair any remedy given against any such corporations, its stockholders or officers, for any liability which shall have been previously incurred.

POWER TO FIX CONNECTING ROUTES AND EXTEND LINES; ADDITIONAL TRACKS AND FACILITIES; PLANS, COMPENSATION, ETC.

§ 32. The said board of rapid transit railroad commissioners may also from time to time, upon application of any railway corporation owning or actually operating a railroad wholly or in part within the limits of the city in which the said board has power to act, if in the judgment of said board the public interests so demand, by the concurrent vote of six of the members of said board fix and determine the route or routes by which any such railway company may connect with other steam railways, or the stations thereof, or with steam ferries, or may extend its lines within said city, and may authorize any such railway company to lay an additional track or tracks on, above, under or contiguous to a portion or the whole of the route or routes of its railway or railways within said city and to acquire terminal or other facilities necessary for the accommodation of the traveling public on any street or place except the place now known as Battery park on which said railway shall be located; and may also authorize any such railway company to lay its tracks and operate its railway to any terminal or terminals within the said city, and to transport over the same passengers or freight or both, and to run over the same either passenger trains or freight trains or mixed trains; and the said board shall fix and determine the locations and plans of construction of the railways upon such route or routes and of such tracks and facilities, the times within which they shall be respectively constructed, the compensation to be made therefor to the city by said railway company, and such other terms, conditions and requirements as to the said board may appear just and proper,—provided, however, that every such determination, authorization and license shall be made upon the condition that such corporation shall, from the time of the commencement of

the operation of any such railway or track or tracks under such determination, authorization or license, annually pay to the said city a sum or rental, and that the amount of such sum or rental for a period of not more than thirty-five years, beginning with such operation of any such railway track or tracks, shall be prescribed by the said board in such determination, authorization or license, and that every such determination, authorization and license shall provide for the readjustment of the amount of such sum or rental at the expiration of the period for which the same shall be so prescribed, and for readjustment from time to time in the future of the amount of such annual payment at intervals each of not more than thirty-five years. A certificate shall be prepared by the said board, attested by its seal and the signature of its presiding officer, setting forth in detail the action taken by the said board with respect to such connecting or extended route or routes and such tracks and facilities, and the terms, conditions and requirements aforesaid, including provisions as to the said annual payments and the future readjustments thereof. A like certificate shall be prepared in like manner upon every modification of the terms of the contract as hereinafter provided. Each such certificate shall prescribe the terms and conditions of the readjustments of such annual payments and may provide for the determination of such amount upon such readjustments by arbitration or by the supreme court. Such certificate shall be delivered to said railway corporation upon the receipt by said board of a written acceptance of said terms, conditions and requirements, duly executed by said railway corporation, so as to entitle it to be recorded. The said certificates shall be filed in the office of the secretary of state, and a duly certified copy thereof shall be filed in the office of the clerk of the county in which the said city is situated, and thereupon, and upon fulfillment by such railway corporation, so far as it relates to such connections, additional track or tracks, or facilities, of such of the requirements and conditions as are necessary to be fulfilled in such cases, under section eighteen of article three of the constitution of this state, and upon fulfillment by such railway corporation of such other terms, conditions and requirements enumerated in said certificate, as the said board may require to be fulfilled as a condition precedent to commencing said work, said railway company shall in such cases possess in addition to existing franchises all the powers conferred by this act upon corporations specially formed thereunder, with respect to its railways authorized to be constructed as aforesaid, and when any route or routes, additional track or tracks, or terminal or other facilities, shall be so fixed and determined, and a certificate as aforesaid shall have been duly filed, such railway company may construct the same with all the rights, and with like effect as though the same had been a part of the original route

construction of such railway or railways, and provide for the operation of the same, as hereinafter provided, or to change and modify the said routes, plans or specifications in such particulars as to said board may seem to be desirable, or to adopt other or different routes, plans and specifications for such railway or railways, provided, always that in all cases in which any such change or modification shall be of such a character as to require the consents thereto referred to in section five of this act, and in all cases where other or different routes or general plans may have been so adopted the said board shall proceed to secure the consents required to be obtained by section five of this act as therein set forth. As soon as such consents, where necessary, shall have been obtained, and the detailed plans and specifications have been prepared as provided in section six of this act, the said board, for and in behalf of said city, shall enter into a contract with any person, firm or corporation, which in the opinion of said board shall be best qualified to fulfill and carry out said contract, for the construction of such road or roads, upon the routes and in accordance with the plans and specifications so adopted, for such sum or sums of money, to be raised and paid out of the treasury of said city, as hereinafter provided, and on such terms and conditions, not inconsistent with the aforesaid plans and specifications, as said board shall determine to be best for the public interests. And said board may contract for the construction of the whole road, or all the roads provided for by the aforesaid plans in a single contract, or may by separate contracts, executed from time to time, provide for the construction of parts of said road or roads, or for the construction at first of two or more tracks over a part or parts of such road or roads, and afterwards of one or more additional tracks over a part or parts of such road or roads, as the necessities of said city and the increase of its population may in the judgment of said board require. The board may also in a contract for a part of such a road insert a provision that at a future time upon the requirement of the board the contractor shall construct the remainder or any part of the remainder of said road, as the growth of population or the interests of the city may in the judgment of the board require, and may in such contract insert a provision of a method for fixing and ascertaining at such future time the amount to be paid to the contractor for such additional construction, and to the end of such ascertainment may provide for arbitration or for determination by a court of the amount of such compensation, or of any other details of construction which shall not be prescribed in the contract, but which shall be deemed necessary or convenient by said board. Any such contract may provide, if the public interest shall, in the opinion of the board, justify the provision, that the construction of any section or portion of the road may, with the

consent of the board, be suspended during the term of operation of the railroad as hereinafter mentioned, or any part of such term, provided, that during such term or part of term the contractor shall use in lieu of such portion of the road a railroad owned or leased by the contractor or a portion or section thereof, which shall, with the railroad or portion of railroad constructed by it under its contract with the board, form a continuous and convenient route. Such contract shall also provide that the person, firm or corporation so contracting to construct said road or roads shall, at his or its own cost and expense, equip, maintain and operate said road or roads for a term of years to be specified in said contract, not less than thirty-five, nor more than fifty years, and upon such terms and conditions as to the rates of fare to be charged and the character of service to be furnished and otherwise as said board shall deem to be best suited to the public interests, and subject to such public supervision and to such conditions, regulations and requirements as may be determined upon by said board, provided, that in case the contract shall provide for construction at different times or at intervals of time of different parts of a road, or if the contract shall provide for the use by the contractor of an existing railroad as part of a continuous route as aforesaid, then and in any such case the board of rapid transit railroad commissioners may in its discretion prescribe periods for the operation of the different parts of said road so that at one period of time in the future the board may be enabled to make a single operating contract or lease of the entire road. Such contract shall further provide by proper stipulations and covenants on the part of said city, that the said city shall secure and assure to the contractor, so long as the contractor shall perform the stipulations of the contract, the right to construct and to operate the road as prescribed in the contract, free of all right, claim or other interference, whether by injunction, suit for damages, or otherwise, on the part of any owner, abutting owner, or other person. Such contract shall further provide that the person, firm or corporation so contracting to construct, maintain and operate said road shall annually pay into the treasury of said city, as rental for the use of said road, a sum which shall not, except as hereinafter provided, be less than the annual interest upon the bonds to be issued by said city for the construction of said road as hereinafter provided for, and in addition to said interest, a further sum which shall be equal to a percentage of not less than one per centum upon the whole amount of said bonds,—provided, that in estimating such annual interest and additional percentage there shall be deducted from the amount of the said bonds the amount thereof issued to pay for rights, terms, easements, privileges or property other than lands acquired in fee. Such rental and the term for the

operation of said road shall begin as to said road or any section thereof when the same shall be declared by the board of rapid transit railroad commissioners to be completed and ready for operation. For the purpose of estimating such one per centum per annum upon the ascertainment of the amount of such rental, there shall be included such portion of the said bonds as shall have been issued to pay interest on bonds theretofore issued under the provisions of this act, except bonds issued to pay for rights, terms, easements, privileges, or property other than lands acquired in fee. The aforesaid annual rental shall be paid at such times during each year as said board shall require, and shall be applied first to the payment of the interest on said bonds, as the same shall accrue and fall due, and the remainder of said rental not required for the payment of said interest shall be paid into the sinking fund, for the payment of the city debt, if there shall be such sinking fund in said city, or, if there be none such, then said balance of said rental shall be securely invested, and, with the annual accretions of interest thereon, shall constitute a sinking fund for the payment and redemption at maturity of the bonds issued, as hereinafter provided. Said contract may also provide for a renewal or renewals of the lease of said road upon the expiration of the original term, and of any renewals of the same upon such terms and conditions as to said board may seem just and proper, and may also contain provisions for the valuation of the whole or a part of the property of said contracting person, firm or corporation, employed in and about the equipment, maintenance and operation of said road, and for the purchase of the same by the city, at such valuation, or a percentage of the same, should said lease not be so renewed at any time. Said contract may provide for the construction of said road in sections, and except as herein otherwise provided, shall specify when the construction of said road, or sections of the same, shall be commenced, and, in each case, the date of completion. It shall also state the date on which the operation of the road, or of any section thereof, shall commence. The person, firm or corporation so contracting for the construction, equipment, maintenance and operation of said road, shall give a bond to said city, in such amount as said board of rapid transit railroad commissioners shall require, and with sureties to be approved by said board, who shall justify in the aggregate in double the amount of said bond. Said bond shall be a continuing security, and shall provide for the prompt payment by said contracting person, firm or corporation, of the amount of annual rental specified in the aforesaid contract, and also for the faithful performance by said contracting person, firm or corporation, of all the conditions, covenants and requirements specified and provided for in said contract. The said contracting

person, firm or corporation shall also simultaneously with the execution and delivery of said contract, deposit with the comptroller or other chief financial officer of such city the sum of one million dollars in cash or in securities of a value not less than one million dollars, which securities shall be of the character of those in which the savings banks of this state are authorized by law to invest moneys, and shall be approved by the board of rapid transit railroad commissioners, which cash or securities shall, under such terms and conditions as shall be provided in the said contract, be further security for the faithful performance by such contracting person, firm or corporation of all the covenants, conditions and requirements specified and provided for in said contract relating to the construction and equipment of said road, and the city in and for which said road shall be constructed shall also have a first lien upon the rolling stock and other property of said contracting person, firm or corporation, constituting the equipment of said road and used or intended for use in the maintenance and operation of the same, as further security for the faithful performance by such contracting person, firm or corporation of the covenant, conditions and agreements of said contract on his, their, or its part to be fulfilled and performed, and in case of the breach of any such covenant, condition and agreement said lien shall be subject to foreclosure by action, at the suit of such city, in the same manner, as far as may be, as is then provided by law in the case of foreclosure by action of mortgages on real estate. The said board of rapid transit railroad commissioners may, however, from time to time, by a concurrent vote of six of the members of said board, relieve from such lien, any of the property to which the same may attach, upon receiving additional security which may be deemed by said board so voting to be the equivalent of that which it is proposed to release and otherwise upon such terms as to such board so voting shall seem just. Upon the completion of the construction and equipment of said road to the satisfaction of said board, and when the operation of the same shall have commenced pursuant to said contract, it shall be the duty of the comptroller or other chief financial officer to pay to the said contracting person, firm or corporation said sum of one million dollars in cash or the said securities so to be deposited as above provided, and said contracting person, firm or corporation shall also be then entitled to be credited upon the rental which he, they or it shall have contracted to pay to said city for the use of said road a sum, which shall be equal, as the case may be, either to the interest on the sum of one million dollars for the time of such deposit at the rate of interest provided for in the bonds which shall have been issued and sold by the city to provide for the construction of said road or to the interest, dividends, or other income which

said city shall have received from the said securities. The said contract shall further provide that in case of default in paying the annual sum or rental therein provided for, or in case of the failure or neglect on the part of said contracting person, firm or corporation, faithfully to observe, keep and fulfill the conditions, obligations and requirements of said contract, the said city, by its board of rapid transit railroad commissioners, may take possession of said road and the equipment thereof, and as the agent of said contracting person, firm or corporation, either maintain and operate said road, or enter into a contract with some other person, firm or corporation, for the maintenance and operation thereof, retaining out of the proceeds of such operation, after the payment of the necessary expenses of operation and maintenance, the annual rental hereinbefore referred to, and paying over the balance, if any, to the person, firm or corporation with whom the first contract above mentioned was made, and if such proceeds of the operation of said road, after the payment of the necessary expenses of maintenance and operation, including the keeping in repair of the rolling stock and other equipment, shall in any year be less than the annual rental hereinbefore referred to and provided in the first contract, then and in that case, the said contracting person, firm or corporation and his or its bondsmen, shall be and continue jointly and severally liable to the aforesaid city for the amount of such deficiency until the end of the full term for which the said first contract was originally made. No contract entered into under authority of this act shall be assigned without the written consent of the said board of rapid transit railroad commissioners concurred in by all the members of said board. It shall be deemed to be part of every such contract that, in case the board of rapid transit railroad commissioners shall cease to exist, the legislature may provide what public officer or officers of the city shall exercise the powers and duties belonging to the board of rapid transit railroad commissioners under or by virtue of any such contract, and that in default of such provision, such powers and duties shall be deemed to be vested in the mayor of the city. Every such contract shall provide that if the contracting person, firm or corporation shall fail to construct or to operate the railway according to the terms of the contract, and shall, after due notice of its default, omit for more than a reasonable time to comply with the provisions of such contract, the board of rapid transit railroad commissioners may bring an action in the name and in behalf of the city to forfeit and vacate all the rights of such contracting person, firm or corporation under such contract, and for damages and otherwise as may be necessary for the sufficient and just protection of the rights of the city; or may, upon such terms as to the board of rapid

transit railroad commissioners seem just and with such person or corporation as to the said board may seem proper, make another operating contract and lease of the said road for the residue of the term of the contractor in default; and may bring action in the name and on behalf of the city to recover from the contractor the amount due from the contractor, less the amount which shall have been received by the city under or by virtue of such new contract, and for all other damages sustained by the city by reason of such default. Any railway corporation, organized under the laws of this state, or any existing railway corporation owning or actually operating a railway wholly or in part within the limits of the city, in and for which said board has power to act, shall be competent and is hereby authorized to enter into a contract for the construction and operation of any railway pursuant to the provisions of this chapter. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 35. The person, firm or corporation operating such road, shall be exempt from taxation in respect to his, their or its interest therein under said contract and in respect to the rolling stock and other equipment of said road, but this exemption shall not extend to any real property which may be owned and employed by said person, firm or corporation in connection with the construction or operation of said road. (*Thus amended by chap.* 752, *Laws* 1894.)

§ 36. The said board of rapid transit railroad commissioners before awarding any contract or contracts shall advertise for proposals for such contracts by a notice to be printed twice a week for three successive weeks in no less than four of the daily newspapers published in said city, and in such newspapers published elsewhere than in said city as said board shall determine. Such notice shall set forth and state the points within said city, between which said road or roads is or are to run, the general method of construction, the route or routes to be followed, the term of years for which it is proposed to make such contract, and such other details and specifications as said board shall deem to be proper. Said notice shall state the time and place at which said proposals will be opened, and the said board shall attend at the time and place so specified, and shall publicly open all proposals that shall have been received, but the said board shall not be bound to accept any proposals so received, but may reject all such proposals and readvertise for proposals in the manner hereinbefore provided, or may accept any of such proposals as will, in the judgment of such board, best promote the public interest, and award a contract accordingly. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 37. For the purpose of providing the necessary means for such

said city shall have received from the said securities. The said contract shall further provide that in case of default in paying the annual sum or rental therein provided for, or in case of the failure or neglect on the part of said contracting person, firm or corporation, faithfully to observe, keep and fulfill the conditions, obligations and requirements of said contract, the said city, by its board of rapid transit railroad commissioners, may take possession of said road and the equipment thereof, and as the agent of said contracting person, firm or corporation, either maintain and operate said road, or enter into a contract with some other person, firm or corporation, for the maintenance and operation thereof, retaining out of the proceeds of such operation, after the payment of the necessary expenses of operation and maintenance, the annual rental hereinbefore referred to, and paying over the balance, if any, to the person, firm or corporation with whom the first contract above mentioned was made, and if such proceeds of the operation of said road, after the payment of the necessary expenses of maintenance and operation, including the keeping in repair of the rolling stock and other equipment, shall in any year be less than the annual rental hereinbefore referred to and provided in the first contract, then and in that case, the said contracting person, firm or corporation and his or its bondsmen, shall be and continue jointly and severally liable to the aforesaid city for the amount of such deficiency until the end of the full term for which the said first contract was originally made. No contract entered into under authority of this act shall be assigned without the written consent of the said board of rapid transit railroad commissioners concurred in by all the members of said board. It shall be deemed to be part of every such contract that, in case the board of rapid transit railroad commissioners shall cease to exist, the legislature may provide what public officer or officers of the city shall exercise the powers and duties belonging to the board of rapid transit railroad commissioners under or by virtue of any such contract, and that in default of such provision, such powers and duties shall be deemed to be vested in the mayor of the city. Every such contract shall provide that if the contracting person, firm or corporation shall fail to construct or to operate the railway according to the terms of the contract, and shall, after due notice of its default, omit for more than a reasonable time to comply with the provisions of such contract, the board of rapid transit railroad commissioners may bring an action in the name and in behalf of the city to forfeit and vacate all the rights of such contracting person, firm or corporation under such contract, and for damages and otherwise as may be necessary for the sufficient and just protection of the rights of the city; or may, upon such terms as to the board of rapid

transit railroad commissioners seem just and with such person or corporation as to the said board may seem proper, make another operating contract and lease of the said road for the residue of the term of the contractor in default; and may bring action in the name and on behalf of the city to recover from the contractor the amount due from the contractor, less the amount which shall have been received by the city under or by virtue of such new contract, and for all other damages sustained by the city by reason of such default. Any railway corporation, organized under the laws of this state, or any existing railway corporation owning or actually operating a railway wholly or in part within the limits of the city, in and for which said board has power to act, shall be competent and is hereby authorized to enter into a contract for the construction and operation of any railway pursuant to the provisions of this chapter. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 35. The person, firm or corporation operating such road, shall be exempt from taxation in respect to his, their or its interest therein under said contract and in respect to the rolling stock and other equipment of said road, but this exemption shall not extend to any real property which may be owned and employed by said person, firm or corporation in connection with the construction or operation of said road. (*Thus amended by chap.* 752, *Laws* 1894.)

§ 36. The said board of rapid transit railroad commissioners before awarding any contract or contracts shall advertise for proposals for such contracts by a notice to be printed twice a week for three successive weeks in no less than four of the daily newspapers published in said city, and in such newspapers published elsewhere than in said city as said board shall determine. Such notice shall set forth and state the points within said city, between which said road or roads is or are to run, the general method of construction, the route or routes to be followed, the term of years for which it is proposed to make such contract, and such other details and specifications as said board shall deem to be proper. Said notice shall state the time and place at which said proposals will be opened, and the said board shall attend at the time and place so specified, and shall publicly open all proposals that shall have been received, but the said board shall not be bound to accept any proposals so received, but may reject all such proposals and readvertise for proposals in the manner hereinbefore provided, or may accept any of such proposals as will, in the judgment of such board, best promote the public interest, and award a contract accordingly. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 37. For the purpose of providing the necessary means for such

construction, at the public expense, of any such road or roads and the necessary means to pay for lands, property, rights, terms, privileges and easements, whether of owners, abutting owners, or others, which shall be acquired by the city for the purposes of the construction or the operation of such road or roads as hereinafter provided, and of meeting the interest on the bonds in this section hereinafter provided for accruing thereon prior to the completion and readiness for operation of the portion of such road or roads for the construction of which such bonds shall have been respectively issued, the board of estimate and apportionment, or other local authority in said city, in which such road or roads are to be constructed, having power to make appropriations of moneys to be raised by taxation therein, from time to time, and as the same shall be necessary, and upon the requisition of said board of rapid transit railroad commissioners, shall direct the comptroller, or other chief financial officer of said city, and it shall thereupon become his duty to issue the bonds of said city at such a rate of interest, not exceeding three and one-half per centum per annum, as said board of estimate and apportionment, or other local authority directing the issue of such bonds, may prescribe. Said bonds shall provide for the payment of the principal and interest in gold coin of the United States of America. They shall not be sold for less than the par value thereof, and the proceeds of the same shall be paid out and expended for the purposes for which the same are issued, upon vouchers certified by said board of rapid transit railroad commissioners. Said bonds shall be free from all taxation for city and county purposes, and shall be payable at maturity out of the sinking fund for the payment of the city debt, if there be such a sinking fund of said city; but if there be no such sinking fund, then out of a sinking fund to be established and created out of the annual rentals of said road as hereinbefore provided. But this provision that the said bonds shall be payable out of such sinking fund shall not diminish or affect the obligation of said city as a debtor upon said bonds, or any other right or remedy of any holder or owner of any such bonds, to collect the principal or interest thereof. The amount of bonds authorized to be issued and sold by this section shall not exceed fifty millions of dollars, par value, without the consent of the legislature first had and obtained, provided, however, that such amount shall be increased by a sum not exceeding five millions of dollars, if the board of rapid transit railroad commissioners shall certify that such increase is made necessary by payments required for any lands, property, rights,

terms, easements or privileges which shall be acquired by the said city as hereinafter provided. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 38. The board of rapid transit railroad commissioners for and on behalf of the said city in which such road or roads may be constructed, may, from time to time, with the concurrence of six members of said board and the consent, in writing, of the bondsmen or sureties of the person, firm or corporation which has contracted to construct, equip, maintain and operate said road or roads, or any of them, agree with said contracting person, firm or corporation upon changes in and modifications of said contract, or of the plans and specifications upon which said road or roads is or are to be constructed, but no change or modifications in the plans and specifications consented to and authorized pursuant to section five of this act shall be made without the further consent and authorization provided for in said section; but in no event shall the annual rental to be paid to said city, for the use of said road, be reduced below the minimum rate hereinbefore provided. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 39. For the purpose of constructing or operating any road for the construction and operation of which a contract shall have been made by the board of rapid transit railroad commissioners, including necessary stations and station approaches, or for the purpose of operating or securing the operation of the same free of interference and right of interference and of action and right of action for damages or otherwise, whether by abutting owners or others, or to provide, lay or maintain conduits, pipes, ways or other means for the transmission of electricity, steam, water, air or other source or means of power or of signals or messages necessary or convenient for or in the construction or operation of such road, or for the transportation of materials necessary for such construction or operation, or to provide a temporary or permanent way or course for any such conduit, pipe or other means or source of transportation, the said board for and in behalf of said city may acquire, as in this act provided, any real estate, and any rights, terms and interest therein, and any and all rights, privileges, franchises and easements, whether of owners or abutting owners or others, including any rights of owners, abutting owners, or others to interfere with the construction or operation of such road or to recover damages therefor, which, in the opinion of the board, it shall be necessary to acquire or extinguish for the purpose of constructing and operating such road free of interference or right of interference. The word "property"

hereinafter used shall be deemed to include any such real estate, and any rights, terms and interest therein, and any such rights, privileges, franchises and easements, whether of owners, abutting owners, or others. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 40. It shall and may be lawful for said board, and for all persons acting under its authority, to enter in the daytime into and upon any and all lands and property which it shall deem necessary to be acquired, or to which there may be appurtenant rights, terms, franchises, easements or privileges which it shall deem necessary to be acquired or extinguished by said city, for the purpose of making the maps or surveys hereinafter mentioned, and also to enter in like manner and for the same purpose upon any property adjacent to and within five hundred feet of the property to be so surveyed; and the said board shall cause three similar maps or plans to be made of each parcel of property which it may deem necessary so to be acquired, or to which there may be appurtenant rights, terms, franchises, easements or privileges necessary so to be acquired or extinguished, designating each of said parcels by a number, and upon each map or plan so made or in a memorandum accompanying the same and to be deemed part thereof the said board shall cause to be clearly indicated the particular estate or estates, rights, terms, privileges, franchises or easements to be acquired or extinguished for the purposes of this act, in relation to each and every piece or parcel of property described upon said map or plan. The said board shall have power to cause a triplicate set of maps or plans and memoranda as herein provided for to be made as often and at such times as said board shall determine, and each set of maps or plans and memoranda so made shall contain the particulars above enumerated within such district as said board shall in each case provide. The maps or plans and memoranda herein provided for, when approved and adopted by said board, shall have written thereon a certificate of such approval, signed by the members of said board adopting and approving the same, and one copy thereof shall be filed in the department of public works, or other chief executive department having principal charge of the streets, there to remain as a public record, and the other two of said maps or plans and memoranda shall be transmitted to the counsel to the corporation or other principal legal adviser of said city. The said board may from time to time make and file further maps or plans and memoranda amending those already filed, but not so as to defeat or impair any property or interest which shall have been already acquired, or to revive any interest or right which may have been

already extinguished by the said city. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 41. Whenever and as often as the said board shall deem it to be necessary and proper that the said city should acquire any such property and shall have caused to be made, as provided in the last preceding sections, the maps or plans and memoranda specifying and defining the said property to be acquired, or to which are appurtenant the rights, terms, franchises, easements or privileges to be acquired or extinguished, and shall have certified, filed and transmitted the several copies of such maps or plans as in the last section prescribed, the said board may direct the counsel to the corporation or other principal legal adviser of said city, to take legal proceedings to acquire the same for the said city, and the said counsel to the corporation, or other principal legal adviser, shall thereupon take proceedings as in this act provided. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 42. The said counsel to the corporation, or other principal legal adviser of said city, shall cause one of the maps or plans, so as aforesaid transmitted to him, to be filed in the office of the register of the county, or if there be no such register, then in the office of the county clerk of the county in which said city is situated. The map, hereinafter denominated the third map, being the other one of the two so as aforesaid transmitted to said counsel to the corporation, or other legal adviser, shall be disposed of as hereinafter provided. (*This section added by chap.* 752, *Laws* 1894.)

§ 43. After the said set shall have been filed as hereinbefore provided in the office of the register or county clerk of said county, the said counsel to the corporation, or other principal legal adviser, for and on behalf of the said city, shall, and he may from time to time, upon first giving the notice required by the next section of this act, apply to the supreme court at any special or general term thereof, to be held in the judicial district in which said city is situated, for the appointment of commissioners of appraisal. Upon each such application he shall present to the court a petition, signed by a majority of the members of said board and verified in the manner prescribed by law for the verification of pleadings, according to the practice of said court, setting forth the action or determination theretofore taken or had by said board, with respect to the property to be acquired, and the filing of said maps or plans and memoranda and praying for the appointment of such commissioners of appraisal. Such petition shall contain a general description of all the property to, or in or over or appurtenant to which any title, interest, right, franchise, easement, term or privilege is sought to be acquired or extinguished, and of every right, franchise, easement, or privilege sought to be

acquired, by the said city for public purposes, each lot or parcel being more particularly described by a reference to the number of said lot or parcel as given on said maps, and the title, interest, right, easement, term or privilege sought to be acquired, or extinguished, to or in or over or appurtenant to each of said lots or parcels shall be stated in said petition. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 44. The said counsel to the corporation or other principal legal adviser shall give, or cause to be given, notice by publication in two public newspapers published in the said city, of his intention to make application to the said court for the appointment of such commissioners of appraisal, which notice shall state the time and place of such application, shall briefly state the object of the application and shall describe the property sought to be acquired or affected. A statement of the location and boundaries of the several lots or parcels of property and rights, franchises, easements, or privileges sought to be taken or affected, and a brief statement as to each of said lots or parcels of the title, interest, rights, easements, terms or privileges therein or appurtenant thereto, sought to be acquired or extinguished with a reference to the dates and places of filing the said maps or plans and memoranda shall be a sufficient description of the property sought to be so taken or affected. Such notice shall be so published daily, Sundays and holidays excepted, in said newspapers for six weeks immediately previous to the time fixed in said notice for the presentation of each petition. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 45. At the time and place mentioned in said notice, unless the said court shall adjourn said application to a subsequent date, and in that event at the time to which the same may be adjourned, the court, upon due proof to its satisfaction of the publication aforesaid, and upon filing the said petition, shall make an order for the appointment of three disinterested freeholders, residents in said city, as commissioners of appraisal, to ascertain and appraise the compensation to be made to the owners of property so to be taken or extinguished for the purposes indicated in this act. Such order shall fix the time and place for the first meeting of the commissioners. (*This section added by chap.* 752, *Laws* 1894.)

§ 46. The said commissioners shall take and subscribe the oath required by the twelfth article of the constitution of the state of New York, and shall forthwith file the same in the office of the clerk of the county in which said city is situated. (*This section added by chap.* 752, *Laws* 1894.)

§ 47. On filing said oath in the manner provided in the last section, the said city shall be and become seized and possessed in fee or absolute ownership of all those parcels of property, rights, terms, franchises, easements and privileges which are in the maps or plans and memoranda

referred to in section forty of this act, described as parcels of property, rights, franchises, easements, or privileges which are to be acquired, and also shall become seized and possessed of all the rights, terms, franchises, easements or privileges appurtenant to any lots or parcels of property indicated on said maps or plans as parcels in regard to which it is deemed necessary to acquire such rights, terms, franchises, easements or privileges, or the said rights, terms, franchises, easements or privileges shall be extinguished, as the case may be; and the said board for the said city may immediately, or at any time or times thereafter, take possession or enter into the enjoyment of the said property, rights, terms, franchises, easements and privileges, or of any part or parts thereof, without any suit or proceeding at law for that purpose, and the said board for the said city, or any person or persons acting under their or its authority, may enter upon and use, occupy, and enjoy in perpetuity all the parcels of property and all the rights, terms, franchises, easements or privileges appurtenant to any of the parcels of property, and all rights, franchises, easements and privileges described on said maps or plans, or in said memoranda, for any of the purposes authorized and provided for by this act. But on such filing of the said oath the said city shall be and become forthwith liable to the respective owners of the several parcels of property and the several rights, terms, franchises, easements and privileges appertaining thereto, and of the said rights, franchises, easements and privileges acquired as aforesaid, for the true and respective values thereof, together with interest thereon from the time of filing the said oath, provided, however, that no such interest shall be payable to any owner of any such property, right, term, franchise, easement or privilege during any period during which the said city or the said board of rapid transit railroad commissioners may by any resistance, whether by legal proceedings or otherwise of such owner or with his authority, be prevented from taking possession thereof or enjoying the same; and provided, further, that no action shall be brought to recover the amount of such value or interest unless within eighteen months after the filing of such oath a report shall not have been duly made by commissioners of appraisal as herein provided, or such report shall not have been confirmed by the supreme court as herein provided, so that the said city shall be liable to forthwith pay the amount by such report ascertained to be due for such value or interest. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 48. Any one of said commissioners of appraisal may issue subpœnas and administer oaths to witnesses, and they or any one of them, in the absence of the others, may adjourn the proceedings, from time to time in their discretion, but they shall continue to meet from time to time as may be necessary to hear, consider and determine upon all claims which may

be presented to them under any of the provisions of this act. In case of the death, resignation, refusal or neglect to serve of any commissioner of appraisal, the remaining commissioner or commissioners shall, upon ten days' notice, to be given by advertisement in the newspapers mentioned in section forty-four of this act, apply to the supreme court, at a special or general term thereof, to be held in the judicial district in which said city is situated, for the appointment of a commissioner or commissioners to fill the vacancy or vacancies so occasioned. In case of the death, resignation or refusal to serve of all the commissioners of appraisal, the said counsel to the corporation or other principal legal adviser to said city shall, on giving the notice required in this section, apply to the said court for the appointment of other commissioners of appraisal. It shall be the duty of the commissioners of appraisal to procure from the counsel to the corporation or other principal legal adviser the third set of maps or plans and memoranda provided for in sections forty and forty-two of this act. They shall view the property laid down on said map, and shall hear the proofs and allegations of any owner, lessee or other person in any way entitled to or interested in the property to be acquired or extinguished, or any part or parcel thereof, and also such proofs and allegations as may be offered on behalf of the said city. They shall reduce the testimony, if any, taken before them to writing, and after the testimony is closed, they, or a majority of them, all having considered the same, and having an opportunity to be present, shall without unnecessary delay, ascertain and determine the compensation which ought justly to be made by the said city to the owners or persons interested in the property acquired or extinguished by said proceedings. The said commissioners of appraisal shall make reports of their proceedings to the supreme court, as in the next section provided with the minutes of the testimony taken before them, if any, and they shall be entitled to the payment hereinafter provided for their services and expenses to be paid from the fund hereinafter specified. The said commissioners may make a single report or may make reports from time to time as they shall reach their several decisions as to different parcels of property. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 49. The said commissioners shall prepare a report or reports, to which shall be annexed the third set of maps or plans and memoranda referred to in section forty-two of this act and therein denominated the third set or a copy thereof certified by them. Each said report shall contain a brief description of the property so taken or affected, with a reference to the map upon which the same is required to be indicated; a statement of the sums estimated and determined upon by them, as a just compensation for the same to be made by the city

to the owners or the persons interested therein, and the names of such owners and persons; but in all and each and every case or cases where one or more of the owners and persons interested, or their respective estates or interests, are unknown, or not fully known, to the commissioners of appraisal, it shall be sufficient for them to set forth and state in general terms the respective sums to be allowed and paid to the owners of and persons interested therein, generally, without specifying the names or estates or interests of such owner or persons interested, or any or either of them. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 50. Each said report, signed by said commissioners, or a majority of them, shall be filed in the office of the clerk of the county in which said city is situated, and the commissioners of appraisal shall, in each case, notify the counsel to the corporation, or other principal adviser to said city, as soon as any such report is filed. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 51. The counsel to the corporation, or other principal legal adviser, or, in case of his neglect to do so within ten days after receiving notice of such filing, then any person interested in the proceedings shall give notice that the said report will be presented for confirmation to the supreme court, at a special term thereof, to be held in the judicial district in which said city is situated, at a time and place to be specified in said notice. The said notice shall contain a statement of the time and place of the filing of the report, and shall be published in two daily newspapers published in said city, for at least two weeks immediately prior to the presentation of said report for confirmation. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 52. The application for the confirmation of each such report shall be made to the supreme court at a special term thereof, held in the judicial district in which said city is situated. Upon the hearing of the application for the confirmation thereof the said court shall confirm such report, and make an order containing a recital of the substance of the proceedings in the matter of the appraisal, with a general description of the property appraised and for which compensation is to be made, and shall also direct to whom the money is to be paid, and whether or not any part thereof, and, if so, what part, is to be deposited with the comptroller or other chief financial officer of said city with the chamberlain of said city, or if there be no chamberlain, with a bank or trust company to be designated by said court. Such report when so confirmed shall, except in the case of an appeal, as hereinafter provided, be final and conclusive, as well upon the said city as upon owners and all persons interested in or entitled to said property, and also upon all other persons whomsoever. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 53. The said city shall, within four calendar months after the confirmation of any report of the commissioners of appraisal, pay to the respective owners and bodies politic or corporate mentioned or referred to in said report, in whose favor any sum or sums of money shall be estimated and reported by said commissioners, the respective sum or sums so estimated and reported in their favor respectively, with legal interest thereon from the date of filing the oath of said commissioners, and in case of neglect or default in the payment of the same within the time aforesaid, the respective person or persons or bodies politic or corporate, in whose favor the same shall be so reported, his, her or their executors, administrators, successors or assigns at any time or times after application first made by him, her or them, to the comptroller or other chief financial officer of said city for payment thereof, may sue for and recover the same, with lawful interest as aforesaid, and the costs of suit, in any proper form of action against the said city in any court having cognizance thereof, and in which it shall be sufficient to declare generally for so much money due to the plaintiff or plaintiffs therein by virtue of this act for property taken or extinguished for the purposes herein mentioned, and the report of said commissioners, with proof of the right and title of the plaintiff or plaintiffs to the sum or sums demanded shall be conclusive evidence in such suit or action. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 54. Whenever the owner or owners, person or persons interested in any property taken or affected in such proceeding, or in whose favor any such sum or sums or compensation shall be so reported, shall be under the age of twenty-one years, or of unsound mind or absent from the city, and also in all cases where the name or names of the owner or owners, person or persons, interested in any such property shall not be set forth or mentioned in said report or where the said owner or owners, person or persons, being named therein, can not, upon diligent inquiry, be found, or where there are adverse or conflicting claims to the money awarded as compensation, it shall be lawful for the said city to pay the sum or sums mentioned in said report, payable, or that would be coming to such owner or owners, person or persons, respectively, with interest, as aforesaid, to the chamberlain of said city, or, if there be no chamberlain, then to any bank or trust company designated by the court in the order confirming the report of the commissioners of appraisal, to the credit of such owner or owners, person or persons, and such payment shall be as valid and effectual in all respects as if made to the said owner or owners, person or persons, interested therein, respectively, according to their just rights; and, provided, also, that in all and each and every such case and cases where any sum or sums or compensation reported by the commis-

sioners in favor of any person or persons or parties whatsoever, whether named or not named in said report, shall be paid to any person or persons, or party or parties, whomsoever, when the same shall of right belong and ought to have been paid to some other person or persons, or party or parties, it shall be lawful for the person or persons, or party or parties, to whom the same ought to have been paid, to sue for and recover the same, with lawful interest and costs of suit, as so much money had and received to his, her or their use by the person or persons, party or parties, respectively, to whom the same shall have been so paid. (*This section added by chap.* 752, *Laws* 1894.)

§ 55. Every owner or person in any way interested in any property taken or extinguished as contemplated in this act, if he intends to make claim for compensation for such taking or extinguishment, shall within three years after the appointment of the commissioners of appraisal exhibit to the said commissioners a statement of his claim, and shall thereupon be entitled to offer testimony and to be heard before them touching such claim and the compensation proper to be made him, and to have a determination made by such commissioners of appraisal as to the amount of such compensation. Every person neglecting or refusing to present such claim within said time shall be deemed to have surrendered his claim for such compensation, except so far as he may be entitled, as such owner or person interested, to the whole or a part of the sum of money awarded by the commissioners of appraisal as a just compensation for taking or extinguishing the property owned by said person, or in which the said person is interested. (*This section added by chap.* 752, *Laws* 1894.)

§ 56. Payment of the compensation awarded by said commissioners of appraisal to the persons named in their report (if not infants or persons of unsound mind) shall, in the absence of notice to the said city or other claimants to such award, protect the said city. (*This section added by chap.* 752, *Laws* 1894.)

§ 57. Said commissioners of appraisal may in their discretion take up any specified claim or claims, and finally ascertain and determine the compensation to be made thereon, and make a separate report with reference thereto, annexing to said report a copy of so much of the set of maps or plans and memoranda referred to in section forty-two of this act as indicates the property so reported on. Such report shall, as to claims therein specified, be the report required in this act, and the subsequent action with reference thereto, shall be had in the same manner as though no other claim were embraced in said proceeding, which, however, shall continue as to all claims upon which no such determination and report is made. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 58. Within twenty days after notice of the confirmation of the report

§ 53. The said city shall [illegible] section fifty-two of this act, firmation of any repo[illegible] who have not appeared before the com- respective owners a[illegible] manner provided in section fifty-one of this to in said report, i[illegible] to the general term of the supreme court in mated and repo[illegible] which such commissioners were appointed, from the so estimated [illegible] court of the commissioners and the order confirming the thereon fro[illegible] appeal shall be heard upon due notice thereof being given case of [illegible] to the rules and practice of said court. On the hearing of aforesai[illegible] appeal the court may direct a new appraisal and determination of in wh[illegible] question passed upon, by the same or new commissioners, in its dis- adm[illegible] tion, and from any determination of the general term either party, if tio[illegible] aggrieved, may take an appeal, which shall be heard and determined by fi[illegible] the court of appeals. In case of a new appraisal the second report shall be final and conclusive on all the parties and persons interested. If the amount of compensation to be made by such city is increased by the second report, the difference shall be paid by the comptroller or other chief financial officer of said city, to the parties entitled to the same, or shall be deposited with the chamberlain, or bank or trust company, as the court may direct, and if the amount is diminished the difference shall be refunded to the said city by the party to whom the same may have been paid, and judgment therefor may be rendered by the court on the filing of the second report against the party liable to pay the same. But the taking of an appeal by any person or persons shall not operate to stay the proceedings under this act except as to the particular property with which the said appeal is concerned. Such appeal shall be heard upon the evidence taken before said commissioners, and any affidavits as to irregularities, and three printed copies of such evidence shall be furnished by the said city to the party taking the appeal, within ten days after the appeal is perfected, and such appeal may be heard on the evidence so furnished, and may be taken without security thereon. (*This section added by chap.* 752, *Laws* 1894.)

§ 50. The supreme court in the judicial district in which said city is situated shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, and to direct such further notices to be given to any party in interest as it deems proper, and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve or be incapable of serving, or be removed. And the said court may at any time remove any commissioner of appraisal who in its judgment shall be incapable of serving, or who shall for any reason in its judgment be an unfit person to serve as such commissioner. The cause of such removal shall be specified in the order making the same. If in any particular it shall at any time

necessary to amend any pleading or proceeding or to supply ect therein arising in the course of any special proceeding author- by this act, the same may be amended or supplied in such manner as shall be directed by the supreme court, which is hereby authorized to make such amendment or correction. Wherever in this act reference is made to the general term of the supreme court, it shall be deemed to include the appellate division of the supreme court for the district in which said city is situated, whenever said general term shall be superseded thereby. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 60. All property acquired under the provisions of this act shall be and shall be deemed to have been acquired for public uses and purposes, and for the purpose of affording increased facilities for rapid transit between points within the city acquiring such property. (*This section added by chap.* 752, *Laws* 1894.)

§ 61. The moneys necessary and sufficient to be paid for any property, acquired in any manner under the provisions of this act, together with all expenses necessarily incurred in surveying, locating, and acquiring title to such property, and for surveying and locating the same, and for preparing the necessary maps and plans in connection therewith, shall be raised and paid out of the proceeds of bonds issued and sold as provided by section thirty-seven of this act, and all such expenses so incurred in surveying, locating and acquiring title, and for preparing necessary maps and plans and also those incurred as provided in the next section shall be deemed a part of and included in the cost of constructing the road or roads, the construction of which rendered it necessary to acquire the property in the course of the acquisition of which such expenses may be incurred. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 62. The commissioners of appraisal appointed in pursuance of this act shall receive as compensation the sum of ten dollars per day for each day actually employed. They may employ the necessary clerks, stenographers and surveyors. The counsel to the corporation or other principal legal adviser to said city shall, either in person or by such counsel as he shall designate for the purpose, appear for and protect the interests of the city in all proceedings in court and before the commissioners. The fees of the commissioners and the salaries and compensation of their employes, and all other necessary expenses in and about the said proceedings provided for by this act, and such allowance for counsel fees as may be made by order of the court, and all reasonable expenses incurred by said counsel to the corporation, or other principal legal adviser of said counsel designated by him for the proper presentation and defense of the interests of said city before said commissioners and in court, shall be paid by the comptroller or other chief financial officer of said city out of the

of the commissioners, as provided for in section fifty-two of this act, which notice may, as to parties who have not appeared before the commissioners, be given in the manner provided in section fifty-one of this act, either party may appeal to the general term of the supreme court in the department in which such commissioners were appointed, from the appraisal and report of the commissioners and the order confirming the same. Such appeal shall be heard upon due notice thereof being given according to the rules and practice of said court. On the hearing of such appeal the court may direct a new appraisal and determination of any question passed upon, by the same or new commissioners, in its discretion, and from any determination of the general term either party, if aggrieved, may take an appeal, which shall be heard and determined by the court of appeals. In case of a new appraisal the second report shall be final and conclusive on all the parties and persons interested. If the amount of compensation to be made by such city is increased by the second report, the difference shall be paid by the comptroller or other chief financial officer of said city, to the parties entitled to the same, or shall be deposited with the chamberlain, or bank or trust company, as the court may direct, and if the amount is diminished the difference shall be refunded to the said city by the party to whom the same may have been paid, and judgment therefor may be rendered by the court on the filing of the second report against the party liable to pay the same. But the taking of an appeal by any person or persons shall not operate to stay the proceedings under this act except as to the particular property with which the said appeal is concerned. Such appeal shall be heard upon the evidence taken before said commissioners, and any affidavits as to irregularities, and three printed copies of such evidence shall be furnished by the said city to the party taking the appeal, within ten days after the appeal is perfected, and such appeal may be heard on the evidence so furnished, and may be taken without security thereon. (*This section added by chap.* 752, *Laws* 1894.)

§ 59. The supreme court in the judicial district in which said city is situated shall have power at any time to amend any defect or informality in any of the special proceedings authorized by this act as may be necessary, and to direct such further notices to be given to any party in interest as it deems proper, and also to appoint other commissioners in place of any who shall die, or refuse, or neglect to serve or be incapable of serving, or be removed. And the said court may at any time remove any commissioner of appraisal who in its judgment shall be incapable of serving, or who shall for any reason in its judgment be an unfit person to serve as such commissioner. The cause of such removal shall be specified in the order making the same. If in any particular it shall at any time

be found necessary to amend any pleading or proceeding or to supply any defect therein arising in the course of any special proceeding authorized by this act, the same may be amended or supplied in such manner as shall be directed by the supreme court, which is hereby authorized to make such amendment or correction. Wherever in this act reference is made to the general term of the supreme court, it shall be deemed to include the appellate division of the supreme court for the district in which said city is situated, whenever said general term shall be superseded thereby. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 60. All property acquired under the provisions of this act shall be and shall be deemed to have been acquired for public uses and purposes, and for the purpose of affording increased facilities for rapid transit between points within the city acquiring such property. (*This section added by chap.* 752, *Laws* 1894.)

§ 61. The moneys necessary and sufficient to be paid for any property, acquired in any manner under the provisions of this act, together with all expenses necessarily incurred in surveying, locating, and acquiring title to such property, and for surveying and locating the same, and for preparing the necessary maps and plans in connection therewith, shall be raised and paid out of the proceeds of bonds issued and sold as provided by section thirty-seven of this act, and all such expenses so incurred in surveying, locating and acquiring title, and for preparing necessary maps and plans and also those incurred as provided in the next section shall be deemed a part of and included in the cost of constructing the road or roads, the construction of which rendered it necessary to acquire the property in the course of the acquisition of which such expenses may be incurred. (*Thus amended by chap.* 519, *Laws* 1895.)

§ 62. The commissioners of appraisal appointed in pursuance of this act shall receive as compensation the sum of ten dollars per day for each day actually employed. They may employ the necessary clerks, stenographers and surveyors. The counsel to the corporation or other principal legal adviser to said city shall, either in person or by such counsel as he shall designate for the purpose, appear for and protect the interests of the city in all proceedings in court and before the commissioners. The fees of the commissioners and the salaries and compensation of their employes, and all other necessary expenses in and about the said proceedings provided for by this act, and such allowance for counsel fees as may be made by order of the court, and all reasonable expenses incurred by said counsel to the corporation, or other principal legal adviser of said counsel designated by him for the proper presentation and defense of the interests of said city before said commissioners and in court, shall be paid by the comptroller or other chief financial officer of said city out of the

funds referred to in the last preceding section. But such fees and expenses shall not be paid until they have been taxed before a justice of the supreme court in the judicial district in which said city is situated upon five days' notice to the counsel to the corporation, or other chief legal adviser of said city. Such allowance shall, in no case, exceed the limits prescribed by section thirty-two hundred and fifty-three of the code of civil procedure. (*This section added by chap.* 752, *Laws* 1894.)

§ 63. In case it shall be determined by vote of the people as provided by sections twelve and thirteen of chapter seven hundred and fifty-two of the laws of eighteen hundred and ninety-four, to construct by and at the city's expense, then and in that event the road or roads so constructed shall be and remain the absolute property of the city so constructing it or them, and shall be and be deemed to be a part of the public streets and highways of said city, to be used and enjoyed by the public upon the payment of such fares and tolls, and subject to such reasonable rules and regulations as may be imposed and provided for by the board of rapid transit railroad commissioners in said city. (*This section added by chap.* 752, *Laws* 1894.)

CONSTRUCTION OF ACT.

§ 64. This act shall not be construed to repeal or in any manner affect chapter six hundred and six of the laws of eighteen hundred and seventy-five, entitled "An act to further provide for the construction and operation of a steam railway or railways in the counties of this state," or the acts amendatory thereof or supplementary thereto, or article five of chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, known as the railroad law, except so far as the said acts, or either of them, would, if this act had not been passed, authorize the appointment hereafter of any commissioners applied for as provided in section one of said act of eighteen hundred and seventy-five, or in section one hundred and twenty of said act of eighteen hundred and ninety, in any city or cities containing a population of over one million inhabitants, according to the last preceding national or state census, or authorize any commissioners already appointed pursuant to the provisions of such act or acts in any such city or cities, to fix, determine or locate any new route or routes, pursuant to the provisions of either of said acts. This act shall not be construed in any manner to affect the exercise or enjoyment at any time, and from time to time hereafter, of any right or rights heretofore acquired, exercised or enjoyed by any corporation heretofore duly incorporated and organized or deriving powers and rights under the laws of this state. This act shall not affect or impair the exercise or enjoyment

of any right or rights now possessed or heretofore acquired or heretofore authorized to be acquired, exercised or enjoyed by any street surface railroad corporation, except as herein otherwise expressly provided, and this act shall not be construed to repeal or in any manner affect chapter one hundred and forty of the laws of eighteen hundred and fifty, entitled "An act to authorize the formation of railroad corporations, and to regulate the same," or either of the several acts amendatory thereof or supplementary thereto. This act shall not be construed to repeal or in any manner affect chapter five hundred and sixty-five of the laws of eighteen hundred and ninety, known as the railroad law, except as hereinabove expressly provided, or except so far as the provisions of the same conflict with the provisions of this act. But nothing in this section contained shall prevent the board of rapid transit railroad commissioners from laying out a route for a railway and constructing a railway, and such board shall have the right to lay out such route and construct such railway, over, under, along or across any street in, along, under or over which there shall be any existing railway, provided that the routes so laid out by the said board and the railway so constructed by it shall so pass over or under or at the side of such existing railway as not to interfere with its operation. (*Thus amended by chap.* 519, *Laws* 1895.)

NO SURFACE ROADS UNDER ACT.

§ 65. No railroad shall be constructed or operated upon the surface of any street, avenue or highway in the city of New York under the provisions or authority of this act. (*The number of this section was changed by chap.* 752, *Laws* 1894.)

REPEAL.

§ 66. All acts or parts of acts local or general inconsistent with this act are hereby repealed. (*The number of this section was changed by chap.* 752, *Laws* 1894.)

§ 67. This act shall take effect immediately. (*The number of this section was changed by chap.* 752, *Laws* 1894.)

§ 10. Whenever it is expressly provided in the act hereby amended that any act of the board of rapid transit railroad commissioners shall be done by the concurrent vote of four of the members of said board, the act hereby amended is further amended so as to provide in such cases that such vote shall be that of six of such members. (*Thus amended by chap.* 752, *Laws* 1894.)

§ 11. The commissioners of rapid transit heretofore appointed under the act hereby amended, or who became such commissioners by its

terms, upon the organization of the board which shall succeed them pursuant to said act as hereby amended, shall cease to be such commissioners and shall transfer and deliver to the board of rapid transit railroad commissioners, provided for by the act hereby amended, as so amended, all furniture, books, maps, records, plans and other papers and property of what kind soever appertaining or belonging to or in the custody of the board of which they were commissioners, or in their possession, or under their control as such commissioners, or held by them, or for which they are responsible in their official capacity. The expenses incurred by said commissioners for which an appropriation or appropriations shall have been made pursuant to section ten of the act hereby amended, shall be paid upon vouchers to be furnished by said commissioners and otherwise, as provided in said section. Said commissioners shall also be entitled to receive a reasonable compensation for the services which have been rendered by them, which may have been, or which shall be, determined on their application in the manner provided for in said section. The comptroller, or other chief financial officer of said city, is hereby authorized and directed to issue and sell revenue bonds of such city in anticipation of the receipt of taxes, and out of the proceeds of such bonds to pay said compensation so ascertained and determined, and the amount necessary to pay the principal and interest of said bonds shall be included in the tax levy of said city for the year next following the issue and sale of the same. (*Thus amended by chap.* 752, *Laws* 1894.)

§ 12. The said board of rapid transit railway commissioners shall cause the question, whether such railway or railways shall be constructed by the city and at the public expense, to be submitted to the vote of the qualified electors of the city within which such railway or railways is or are to be constructed, and to that end it shall be the duty of the said board, after completion of the detailed plans and specifications, as required by the act hereby amended, at least thirty days prior to the next general election, to file with the public officer or officers within the county in which such city is located, who may be charged with the duty of printing the ballots to be used at such election, a request that separate ballots be printed and supplied to such electors, one-half in number of which shall read: "For municipal construction of rapid transit road," and the other half in number of said ballots shall read, "Against municipal construction of rapid transit road." Upon such request being so filed, such ballots shall be printed and supplied to such electors at such general election, and separate ballot boxes shall be provided for the reception of the same in each election district within such city, and the provisions of chapter six hundred and eighty of the laws of eighteen hundred and ninety-two,

entitled "An act in relation to the elections constituting chapter six of the general laws," and any act or acts amendatory thereof or supplemental thereto shall apply thereto as far as the nature of the case may allow. No ballot which may be provided under this section shall be deemed invalid by reason of an error in dimensions, style of printing, or other formal defect, or through having been deposited in the wrong ballot box, but all of such ballots shall be canvassed and returned as if such formal defect had not existed, or as if they had been deposited in the box provided for the purpose. Upon the canvass of such votes by the board of county canvassers of the county in which such city is located, it shall be the duty of said board to file with the county clerk of said county a statement which shall declare the total number of votes cast in said city "for municipal construction of rapid transit road," and the total number so cast therein "against municipal construction of rapid transit road." And the said railway or railways shall be constructed by the said city and at the public expense, if it shall be found from such statements so filed that there is a majority of the votes so cast in favor of such municipal construction. (*Thus amended by chap.* 752, *Laws* 1894.)

§ 13. In case the majority of votes cast at such election shall be in favor of such municipal construction of said railway or railways, it shall be the duty of said board of rapid transit railway commissioners within thirty days after the official declaration of the said vote to proceed to construct the said railway or railways, and to make and let all contracts required for the performance of the work necessary to be done and performed in and about the construction thereof. All such contracts must, before execution, be approved as to form by the counsel to the corporation, or other chief legal adviser for said city. (*Thus amended by chap.* 752, *Laws* 1894.)

§ 14. This act shall take effect immediately; except that the building of said road, or the sale of the franchises as provided for in sections seven and thirty-four of the act hereby amended, as so amended, is postponed until, and made dependent upon, the determination of that question by the vote of the people as called for by sections twelve and thirteen of this act. (*Thus amended by chap.* 752, *Laws* 1894.)

CHAP. 102, LAWS OF 1892.

AN ACT to amend chapter four of the laws of eighteen hundred and ninety-one, entitled "An act to provide for rapid transit railways in cities having over one million inhabitants."

§ 38*a*. The board of directors of any company incorporated for the purpose of constructing, maintaining or operating a bridge or bridges

connecting a city of more than one million inhabitants with any other city in this state, and by the act of incorporation of which authority shall have been conferred or intended to be conferred, to construct, maintain or operate, as a part of or in connection with its bridge, an approach or approaches thereto extending generally in an easterly and westerly direction, may determine in lieu of constructing such approach or approaches, to build, maintain and operate an elevated railway, the route of which shall be coincident with the route of such approach or approaches as defined in said act, and shall adopt a general plan for the construction thereof, and which shall show the general mode of operation, and contain such details as to manner of construction as may be necessary to show the extent to which any street, avenue, or other public place is to be encroached upon and the property abutting thereon affected, a copy of which plan shall be transmitted to the common council of the city in which the same is to be located. Such proceedings shall thereupon be had by such common council as are provided by section five of this act, as though such plans had been transmitted by the rapid transit commissioners as contemplated in said section. Provided, that where, in any such city the exclusive control of any street, route, highway or avenue, which is to be occupied by any railway or railways constructed under the provisions of this section is by law vested in any local authority other than the common council of such city, the approval of the aforesaid plans, and consent to the construction of a railway thereunder shall be given by such local authority in place of, and if required in addition to such approval and consent by such common council, and with like effect. Upon obtaining the approval and consent of the local authorities as in said section provided, the said board of directors shall take the necessary steps to obtain, if possible, the consent of the property owners along the line of the said route or routes, and all proceedings in respect of such consents or when such consents cannot be obtained shall be similar in all respects to the proceedings in said section provided. Any consent of the local authorities to construct or operate such railway shall be given only upon the condition that the rate of fare upon such elevated railway shall not exceed five cents for each passenger, and that payment of such fare shall entitle each passenger to and from such elevated railroad to free transit across the bridge or bridges with which it is intended to connect the same. When the consents of the local authorities and the property owners, or in lieu thereof, the authorization of the supreme court upon the report of the commissioners shall have been obtained, and the said company shall have accepted such condition it shall have all the powers of corporations formed under this act, it shall be authorized to build, construct, maintain

and operate such elevated railway or railways, but all provisions of this act, or of any act requiring the sale of the right, privilege and franchise of construction, maintaining and operating such railway or railways, or requiring a corporation or corporations to be organized for the purpose of acquiring such right, privilege and franchise, and all other provisions of this act or of any act inconsistent with this section, are hereby declared inapplicable to such elevated railway and to such company. The entire route of any elevated railway constructed under the provisions of this section shall not exceed three miles in length, nor shall any part of said railway, except at the termini thereof be less than sixteen feet above any street, avenue or public place, or less than fourteen feet above any existing elevated railway, which may be crossed, intervened or intersected thereby. The said railway may be located and constructed so as to cross any intersecting street, avenue, highway or place otherwise exempted, except that no public park shall be occupied or crossed thereby, the structure of such elevated railway shall be liable to taxation as provided by law for similar structures. (*Thus amended by chap.* 519, *Laws* 1895.)

INTERSTATE COMMERCE ACT.

APPROVED FEBRUARY 4, 1887, AS AMENDED.

CARRIERS AND TRANSPORTATION SUBJECT TO THE ACT.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water when both are used, under a common control, management, or arrangement, for a continuous carriage or shipment, from one state or territory of the United States, or the District of Columbia, to any other state or territory of the United States, or the District of Columbia, or from any place in the United States to an adjacent foreign country, or from any place in the United States through a foreign country to any other place in the United States, and also to the transportation in like manner of property shipped from any place in the United States to a foreign country and carried from such place to a port of transshipment, or shipped from a foreign country to any place in the United States and carried to such place from a port of entry either in the United States or an adjacent foreign country: *Provided, however*, That the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one state, and not shipped to or from a foreign country from or to any state or territory as aforesaid.

WHAT THE TERMS "RAILROAD" AND "TRANSPORTATION" INCLUDE.

The term "railroad" as used in this act shall include all bridges and ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

CHARGES MUST BE REASONABLE AND JUST.

All charges made for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection

therewith, or for the receiving, delivering, storage, or handling of such property, shall be reasonable and just; and every unjust and unreasonable charge for such service is prohibited and declared to be unlawful.

UNJUST DISCRIMINATION DEFINED AND FORBIDDEN.

§ 2. That if any common carrier subject to the provisions of this act shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers or property, subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of a like kind of traffic under substantially similar circumstances and conditions, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

UNDUE OR UNREASONABLE PREFERENCE OR ADVANTAGE FORBIDDEN.

§ 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.

FACILITIES FOR INTERCHANGE OF TRAFFIC.

Every common carrier subject to the provisions of this act shall, according to their respective powers, afford all reasonable, proper, and equal facilities for the interchange of traffic between their respective lines, and for the receiving, forwarding and delivering of passengers and property to and from their several lines and those connecting therewith, and shall not discriminate in their rates and charges between such connecting lines; but this shall not be construed as requiring any such common carrier to give the use of its tracks or terminal facilities to another carrier engaged in like business.

LONG AND SHORT HAUL PROVISION

§ 4. That it shall be unlawful for any common carrier subject to the provisions of this act to charge or receive any greater compensation in the

aggregate for the transportation of passengers or of like kind of property, under substantially similar circumstances and conditions, for a shorter than for a longer distance over the same line, in the same direction, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier within the terms of this act to charge and receive as great compensation for a shorter as for a longer distance: *Provided, however*, that upon application to the commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the commission, be authorized to charge less for longer than for shorter distances for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

POOLING OF FREIGHTS AND DIVISION OF EARNINGS FORBIDDEN.

§ 5. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any contract, agreement or combination with any other common carrier or carriers for the pooling of freights of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in any case of an agreement for the pooling of freights as aforesaid, each day of its continuance shall be deemed a separate offense.

PRINTING AND POSTING OF SCHEDULES OF RATE, FARES AND CHARGES.

§ 6. That every common carrier subject to the provisions of this act shall print and keep open to public inspection schedules showing the rates and fares and charges for the transportation of passengers and property which any such common carrier has established and which are in force at the time upon its route. The schedules printed as aforesaid by any such common carrier shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain the classification of freight in force, and shall also state separately the terminal charges and any rules or regulations which in any wise change, affect or determine any part or the aggregate of such aforesaid rates and fares and charges. Such schedules shall be plainly printed in large type, and copies for the use of the public shall be posted in two public and conspicuous places, in every depot, station, or office of such carrier where passengers or freight, respectively, are received for trans-

portation, in such form that they shall be accessible to the public and can be conveniently inspected. (*Thus amended March* 2, 1889.)

PRINTING AND POSTING OF SCHEDULES OF RATES ON FREIGHT CARRIED THROUGH A FOREIGN COUNTRY.

Any common carrier subject to the provisions of this act receiving freight in the United States to be carried through a foreign country to any place in the United States shall also in like manner print and keep open to public inspection, at every depot or office where such freight is received for shipment, schedules showing the through rates established and charged by such common carrier to all points in the United States beyond the foreign country to which it accepts freight for shipment; and any freight shipped from the United States through a foreign country into the United States, the through rate on which shall not have been made public as required by this act, shall, before it is admitted into the United States from said foreign country, be subject to customs duties as if said freight were of foreign production; and any law in conflict with this section is hereby repealed.

TEN DAYS' PUBLIC NOTICE OF ADVANCE IN RATES MUST BE GIVEN; THREE DAYS' PUBLIC NOTICE OF REDUCTION IN RATES MUST BE GIVEN.

No advance shall be made in the rates, fares and charges which have been established and published as aforesaid by any common carrier in compliance with the requirements of this section, except after ten days' public notice, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares, or charges will go into effect; and the proposed changes shall be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept open to public inspection. Reductions in such published rates, fares, or charges shall only be made after three days' previous public notice, to be given in the same manner that notice of an advance in rates must be given.

PUBLISHED RATES NOT TO BE DEVIATED FROM.

And when any such common carrier shall have established and published its rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any services in connection therewith, than is specified in such published schedule of rates, fares and charges as may at the time be in force.

COPIES OF SCHEDULES OF RATES, FARES AND CHARGES MUST BE FILED WITH COMMISSION; COPIES OF CONTRACTS, AGREEMENTS AND ARRANGEMENT MUST BE FILED WITH COMMISSION; JOINT TARIFFS MUST BE FILED WITH COMMISSION; POWER OF COMMISSION TO PRESCRIBE PUBLICITY.

Every common carrier subject to the provisions of this act shall file with the commission hereinafter provided for copies of its schedules of rates, fares and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said commission of all changes made in the same. Every such common carrier shall also file with said commission copies of all contracts, agreements or arrangements, with other common carriers in relation to any traffic affected by the provisions of this act to which it may be a party. And in cases where passengers and freight pass over continuous lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint tariffs of rates or fares or charges for such continuous lines or routes, copies of such joint tariffs shall also, in like manner, be filed with said commission. Such joint rates, fares and charges on such continuous lines so filed as aforesaid shall be made public by such common carriers when directed by said commission, in so far as may, in the judgment of the commission, be deemed practicable; and said commission shall from time to time prescribe the measure of publicity which shall be given to such rates, fares and charges, or to such part of them as it may deem it practicable for such common carriers to publish, and the places in which they shall be published.

TEN DAYS' NOTICE TO COMMISSION OF ADVANCE IN JOINT RATES, FARES AND CHARGES; THREE DAYS' NOTICE TO COMMISSION OF REDUCTION IN JOINT RATES, FARES AND CHARGES; POWER OF COMMISSION TO MAKE ADVANCES OR REDUCTIONS PUBLIC.

No advance shall be made in joint rates, fares and charges, shown upon joint tariffs, except after ten days' notice to the commission, which shall plainly state the changes proposed to be made in the schedule then in force, and the time when the increased rates, fares or charges will go into effect. No reduction shall be made in joint rates, fares and charges, except after three days' notice, to be given to the commission as is above provided in the case of an advance of joint rates. The commission may make public such proposed advances, or such reductions, in such manner as may, in its judgment, be deemed practicable, and may prescribe from

time to time the measure of publicity which common carriers shall give to advances or reductions in joint tariffs.

JOINT RATES, FARES AND CHARGES NOT TO BE DEVIATED FROM.

It shall be unlawful for any common carrier, party to any joint tariff, to charge, demand, collect or receive from any person or persons, a greater or less compensation for the transportation of persons or property, or for any services in connection therewith, between any points as to which a joint rate, fare or charge is named thereon than is specified in the schedule filed with the commission in force at the time.

COMMISSION MAY PRESCRIBE FORMS OF SCHEDULES OF RATES, FARES AND CHARGES.

The commission may determine and prescribe the form in which the schedules required by this section to be kept open to public inspection shall be prepared and arranged, and may change the form from time to time as shall be found expedient.

PENALTIES FOR NEGLECT OR REFUSAL TO FILE OR PUBLISH RATES, FARES AND CHARGES.

If any such common carrier shall neglect or refuse to file or publish its schedules or tariffs of rates, fares and charges as provided in this section, or any part of the same, such common carrier shall, in addition to other penalties herein prescribed, be subject to a writ of mandamus, to be issued by any circuit court of the United States in the judicial district wherein the principal office of said common carrier is situated, or wherein such offense may be committed, and if such common carrier be a foreign corporation in the judicial circuit wherein such common carrier accepts traffic and has an agent to perform such service, to compel compliance with the aforesaid provisions of this section; and such writ shall issue in the name of the people of the United States at the relation of the commissioners appointed under the provisions of this act; and the failure to comply with its requirements shall be punishable as and for a contempt; and the said commissioners, as complainants, may also apply, in any such circuit court of the United States, for a writ of injunction against such common carrier, to restrain such common carrier from receiving or transporting property among the several states and territories of the United States, or between the United States and adjacent foreign countries, or between ports of transshipment and of entry and the several states and territories of the United States, as mentioned in the first section of this act, until such common carrier shall have complied with the aforesaid provisions of this section of this act.

CONTINUOUS CARRIAGE OF FREIGHTS NOT TO BE UNNECESSARILY INTERRUPTED.

§ 7. That it shall be unlawful for any common carrier subject to the provisions of this act to enter into any combination, contract or agreement, expressed or implied, to prevent, by change of time schedule, carriage in different cars, or by other means or devices, the carriage of freights from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freights from being and being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

LIABILITY OF COMMON CARRIERS FOR DAMAGES.

§ 8. That in case any common carrier subject to the provisions of this act shall do, cause to be done, or permit to be done any act, matter or thing in this act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing in this act required to be done, such common carrier shall be liable to the person or persons injured thereby for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee, to be fixed by the court in every case of recovery, which attorney's fee shall be taxed and collected as part of the costs in the case.

PERSONS CLAIMING TO BE DAMAGED MAY COMPLAIN TO COMMISSION OR BRING SUIT IN UNITED STATES COURTS; OFFICERS, ETC., OF DEFENDANT MAY BE COMPELLED TO TESTIFY.

§ 9. That any person or persons claiming to be damaged by any common carrier subject to the provisions of this act may either make complaint to the commission as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district or circuit court of the United States of competent jurisdiction; but such person or persons shall not have the right to pursue both of said remedies, and must in each case elect which one of the two methods of procedure herein provided for he or they will adopt. In any such action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of the corporation or company defendant in such suit

to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

PENALTIES FOR VIOLATIONS OF ACT BY CARRIERS, THEIR OFFICERS OR AGENTS; FINE AND IMPRISONMENT.

§ 10. That any common carrier subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person, acting for or employed by such corporation, who, alone or with any other corporation, company, person or party, shall willfully do or cause to be done, or shall willingly suffer or permit to be done, any act, matter or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter or thing so directed or required by this act to be done not to be so done, or shall aid or abet any such omission or failure, or shall be guilty of any infraction of this act, or shall aid or abet therein, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any district court of the United States within the jurisdiction of which such offense was committed, be subject to a fine of not to exceed five thousand dollars for each offense: *Provided*, that if the offense for which any person shall be convicted as aforesaid shall be an unlawful discrimination in rates, fares, or charges, for the transportation of passengers or property, such person shall, in addition to the fine hereinbefore provided for, be liable to imprisonment in the penitentiary for a term of not exceeding two years, or both such fine and imprisonment, in the discretion of the court.

PENALTIES FOR FALSE BILLING, ETC., BY CARRIERS, THEIR OFFICERS OR AGENTS; FINE AND IMPRISONMENT.

Any common carrier subject to the provisions of this act or, whenever such common carrier is a corporation, any officer or agent thereof, or any person acting for or employed by such corporation, who by means of false billing, false classification, false weighing, or false report of weight, or by any other devise or means, shall knowingly and willfully assist, or shall willingly suffer or permit any person or persons to obtain transportation for property at less than the regular rates then established and in force on the line of transportation of such common carrier, shall be deemed

guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars, or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense.

PENALTIES FOR FALSE BILLING, ETC., BY SHIPPERS AND OTHER PERSONS; FINE AND IMPRISONMENT.

Any person and any officer or agent of any corporation or company who shall deliver property for transportation to any common carrier, subject to the provisions of this act, or for whom as consignor or consignee any such carrier shall transport property, who shall knowingly and willfully, by false billing, false classification, false weighing, false representation of the contents of the package, or false report of weight, or by any other devise or means, whether with or without the consent or connivance of the carrier, its agent or agents, obtain transportation for such property at less than the regular rates then established and in force on the line of transportation, shall be deemed guilty of fraud, which is hereby declared to be a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject for each offense to a fine of not exceedimg five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court.

PENALTIES FOR INDUCING COMMON CARRIERS TO DISCRIMINATE UNJUSTLY; FINE AND IMPRISONMENT; JOINT LIABILITY WITH CARRIER FOR DAMAGES.

If any such person, or any officer or agent of any such corporation or company, shall, by payment of money or other thing of value, solicitation, or otherwise induce any common carrier subject to the provisions of this act, or any of its officers or agents, to discriminate unjustly in his, its, or their favor as against any other consignor or consignee in the transportation of property, or shall aid or abet any common carrier in any such unjust discrimination, such person or such officer or agent of such corporation or company shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court of the United States of competent jurisdiction within the district in which such offense was committed, be subject to a fine of not exceeding five thousand dollars or imprisonment in the penitentiary for a term of not exceeding two years, or both, in the discretion of the court, for each offense; and such person, corporation, or company shall also, together with said common

carrier, be liable jointly or severally, in an action on the case to be brought by any consignor or consignee, discriminated against in any court of the United States of competent jurisdiction for all damages caused by or resulting therefrom. (*Thus amended March* 2, 1889.)

INTERSTATE COMMERCE COMMISSIONERS—HOW APPOINTED; TERMS OF COMMISSIONERS.

§ 11. That a commission is hereby created and established to be known as the Interstate Commerce Commission, which shall be composed of five commissioners, who shall he appointed by the President, by and with the advice and consent of the Senate. The commissioners first appointed under this act shall continue in office for the term of two, three, four, five and six years, respectively, from the first day of January, anno Domini eighteen hundred and eighty-seven, the term of each to be designated by the President; but their successors shall be appointed for terms of six years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired time of the commissioner whom he shall succeed. Any commissioner may be removed by the President for inefficiency, neglect of duty or malfeasance in office. Not more than three of the commissioners shall be appointed from the same political party. No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stocks or bonds thereof, or who is in any manner pecuniarily interested therein, shall enter upon the duties of or hold such office. Said commissioners shall not engage in any other business, vocation or employment. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission.

POWER AND DUTY OF COMMISSION TO INQUIRE INTO BUSINESS OF CARRIERS; COMMISSION REQUIRED TO EXECUTE AND ENFORCE THE PROVISIONS OF THIS ACT; POWER OF THE COMMISSION TO REQUIRE ATTENDANCE OF WITNESSES AND PRODUCTION OF BOOKS AND PAPERS.

§ 12. That the commission hereby created shall have authority to inquire into the management of the business of all common carriers subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the commission to perform the duties and carry out the objects for which it was created; and the commission is hereby authorized and required to execute and enforce the provisions of this act; and, upon the request of the commission, it shall be the duty of any district attorney of the United States to whom the commission may

apply to institute in the proper court and to prosecute under the direction of the Attorney-General of the United States, all necessary proceedings for the enforcement of the provisions of this act and for the punishment of all violations thereof; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States; and for the purposes of this act the commission shall have power to require, by subpœna, the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation. Such attendance of witnesses, and the production of such documentary evidence, may be required from any place in the United States, at any designated place of hearing. And in case of disobedience to a subpœna, the commission, or any party to a proceeding before the commission, may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers and documents under the provisions of this section.

PUNISHMENT FOR REFUSAL TO TESTIFY OR PRODUCE BOOKS AND PAPERS.

And any of the circuit courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpœna issued to any common carrier subject to the provisions of this act, or other person, issue an order requiring such common carrier or other person to appear before said commission (and produce books and papers if so ordered) and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person in the trial of any criminal proceeding. (*Thus amended February* 10, 1891.)

COMMISSION MAY ORDER TESTIMONY TO BE TAKEN BY DEPOSITION.

The testimony of any witness may be taken, at the instance of a party in any proceeding or investigation depending before the commission, by deposition, at any time after a cause or proceeding is at issue on petition and answer. The commission may also order testimony to be taken by deposition in any proceeding or investigation pending before it, at any stage of such proceeding or investigation. Such depositions may be taken before any judge of any court of the United States, or any com-

missioner of a circuit, or any clerk of a district or circuit court, or any chancellor, justice, or judge of a supreme or superior court, mayor or chief magistrate of a city, judge of a county court, or court of common pleas of any of the United States, or any notary public, not being of counsel or attorney to either of the parties, nor interested in the event of the proceeding or investigation. Reasonable notice must first be given in writing by the party or his attorney proposing to take such deposition to the opposite party or his attorney of record, as either may be nearest, which notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce documentary evidence, in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

Every person deposing as herein provided shall be cautioned and sworn (or affirm, if he so request) to testify the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the magistrate taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent.

If a witness whose testimony may be desired to be taken by deposition be in a foreign country, the deposition may be taken before an officer or person designated by the commission, or agreed upon by the parties by stipulation in writing to be filed with the commission. All depositions must be promptly filed with the commission.

Witnesses whose depositions are taken pursuant to this act, and the magistrate or other officer taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States. (*This section was added by amendment February* 10, 1891.)

COMPLAINTS TO COMMISSION; HOW AND BY WHOM MADE; REPARATION BY CARRIERS BEFORE INVESTIGATION; INVESTIGATIONS BY THE COMMISSION.

§ 13. That any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act in contravention of the provisions thereof, may apply to said commission by petition, which shall briefly state the facts; whereupon a statement of the charges thus made shall be forwarded by the commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of

liability to the complainant only for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the commission to investigate the matters complained of in such manner and by such means as it shall deem proper.

Said commission shall in like manner investigate any complaint forwarded by the railroad commissioner or railroad commission of any state or territory at the request of such commissioner or commission, and may institute any inquiry on its own motion in the same manner and to the same effect as though complaint had been made.

No complaint shall at any time be dismissed because of the absence of direct damage to the complainant.

FINDINGS OF COMMISSION PRIMA FACIE EVIDENCE IN JUDICIAL PROCEEDINGS.

§ 14. That whenever an investigation shall be made by said commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to any party or parties who may be found to have been injured, and such findings so made shall thereafter, in all judicial proceedings, be deemed prima facie evidence as to each and every fact found.

All reports of investigations made by the commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of. (*Thus amended March* 2, 1889.)

REPORTS AND DECISIONS; AUTHORIZED PUBLICATION TO BE COMPETENT EVIDENCE; PUBLICATION AND DISTRIBUTION OF ANNUAL REPORTS OF COMMISSION.

The commission may provide for the publication of its reports and decisions in such form and manner as may be best adapted for public information and use, and such authorized publications shall be competent evidence of the reports and decisions of the commission therein contained, in all courts of the United States, and of the several states, without any further proof or authentication thereof. The commission may also cause to be printed for early distribution its annual reports.

NOTICE TO COMMON CARRIERS TO CEASE FROM VIOLATION OF ACT; COMPLIANCE WITH NOTICE TO CEASE FROM VIOLATION OF ACT; REPARATION.

§ 15. That if in any case in which an investigation shall be made by said commission it shall be made to appear to the satisfaction of the com-

mission, either by the testimony of witnesses or other evidence, that anything has been done or omitted to be done in violation of the provisions of this act, or of any law cognizable by said commission, by any common carrier, or that any injury or damage has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation, or to make reparation for the injury so found to have been done, or both, within a reasonable time, to be specified by the commission; and if, within the time specified, it shall be made to appear to the commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done in compliance with the report and notice of the commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the commission and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

PETITION TO UNITED STATES COURTS IN CASES OF DISOBEDIENCE TO ORDER OF COMMISSION; POWER OF UNITED STATES COURTS TO HEAR AND DETERMINE CASES OF DISOBEDIENCE; WRITS OF INJUNCTION OR OTHER PROCESS AGAINST CARRIERS IN CASES OF DISOBEDIENCE; PUNISHMENT FOR REFUSAL TO OBEY WRITS OF INJUNCTION OR OTHER PROPER PROCESS; FINE; APPEALS TO SUPREME COURT OF UNITED STATES.

§ 16. That whenever any common carrier, as defined in and subject to the provisions of this act, shall violate, or refuse or neglect to obey or perform any lawful order or requirement of the commission created by this act, not founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the constitution of the United States, it shall be lawful for the commission or for any company or person interested in such order or requirement to apply in a summary way, by petition, to the circuit court of the United States sitting in equity in the judicial district in which the common carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents or servants in such manner as the court shall direct; and said court shall proceed to hear and deter-

mine the matter as speedily as a court of equity, and without the formal pleadings and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it think fit, to direct and prosecute in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition; and on such hearing the findings of fact in the report of said commission shall be prima facie evidence of the matters therein stated; and if it be made to appear to such court, on such hearing or on report of any such person or persons, that the lawful order or requirement of said commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction, or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money not exceeding for each carrier or person in default the sum of five hundred dollars for every day, after a day to be named in the order, that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining or into court to abide the ultimate decision of the court, or into the treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree in personam in such court. When the subject in dispute shall be of the value of two thousand dollars or more, either party to such proceeding before said court may appeal to the Supreme Court of the United States, under the same regulations now provided by law in respect of security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon; and such court may, in every such matter, order the payment of such costs and counsel fees as

shall be deemed reasonable. Whenever any such petition shall be filed or presented by the commission it shall be the duty of the district attorney, under the direction of the attorney-general of the United States, to prosecute the same; and the costs and expenses of such prosecution shall be paid out of the appropriation for the expenses of the courts of the United States.

PETITION TO UNITED STATES COURTS IN CASES OF DISOBEDIENCE WHEN TRIAL BY JURY IS NECESSARY; TRIAL BY JURY; TRIAL BY COURT; APPEALS TO SUPREME COURT OF UNITED STATES; COUNSEL OR ATTORNEY'S FEES.

If the matters involved in any such order or requirement of said commission are founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, and any such common carrier shall violate or refuse or neglect to obey or perform the same, after notice given by said commission as provided in the fifteenth section of this act, it shall be lawful for any company or person interested in such order or requirement to apply in a summary way by petition to the Circuit Court of the United States sitting as a court of law in the judicial district in which the carrier complained of has its principal office, or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience as the case may be; and said court shall by its order then fix a time and place for the trial of said cause, which shall not be less than twenty nor more than forty days from the time said order is made, and it shall be the duty of the marshal of the district in which said proceeding is pending to forthwith serve a copy of said petition, and of said order, upon each of the defendants, and it shall be the duty of the defendants to file their answers to said petition within ten days after the service of the same upon them as aforesaid. At the trial the findings of fact of said commission as set forth in its report shall be prima facie evidence of the matters therein stated, and if either party shall demand a jury or shall omit to waive a jury, the court shall, by its order, direct the marshal forthwith to summon a jury to try the cause; but if all the parties shall waive a jury in writing, then the court shall try the issues in said cause and render its judgment thereon. If the subject in dispute shall be of the value of two thousand dollars or more, either party may appeal to the Supreme Court of the United States under the same regulations now provided by law in respect to security for such appeal; but such appeal must be taken within twenty days from the day of the rendition of the judgment of said Circuit Court. If the judgment of the Circuit

Court shall be in favor of the party complaining, he or they shall be entitled to recover a reasonable counsel or attorney's fee to be fixed by the court, which shall be collected as part of the costs in the case. For the purposes of this act, excepting its penal provisions, the Circuit Courts of the United States shall be deemed to be always in session. (*Thus amended March* 2, 1889.)

INTERSTATE COMMERCE COMMISSION—FORM OF PROCEDURE; OFFICIAL SEAL.

§ 17. That the commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the commission shall constitute a quorum for the transaction of business, but no commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may be, to those in use in the courts of the United States. Any party may appear before said commission and be heard, in person or by attorney. Every vote and official act of the commission shall be entered of record, and its proceedings shall be public upon the request of either party interested. Said commission shall have an official seal, which shall be judicially noticed. Either of the members of the commission may administer oaths and affirmations and sign subpœnas. (*Thus amended March* 2, 1889.)

SALARIES OF COMMISSIONERS; SECRETARY—HOW APPOINTED; SALARY; OFFICES AND SUPPLIES; WITNESS FEES.

§ 18. That each commissioner shall receive an annual salary of seven thousand five hundred dollars, payable in the same manner as the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive an annual salary of three thousand five hundred dollars, payable in like manner. The commission shall have authority to employ and fix the compensation of such other employes as it may find necessary to the proper performance of its duties. Until otherwise provided by law, the commission may hire suitable offices for its use, and shall have authority to procure all necessary office supplies. Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

EXPENSES OF THE COMMISSION—HOW PAID.

All of the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners or by their employes under their orders, in making any investigation, or upon official business in any other places than in the city of Washington, shall be allowed and paid on the presentation of itemized vouchers therefor, approved by the chairman of the commission. (*Thus amended March* 2, 1889.)

PRINCIPAL OFFICE OF THE COMMISSION—SESSIONS OF THE COMMISSION.

§ 19. That the principal office of the commission shall be in the city of Washington, where its general sessions shall be held; but whenever the convenience of the public or the parties may be promoted or delay or expense prevented thereby, the commission may hold special sessions in any part of the United States. It may, by one or more of the commissioners, prosecute any inquiry necessary to its duties, in any part of the United States, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

CARRIERS SUBJECT TO THE ACT MUST RENDER FULL ANNUAL REPORTS TO COMMISSION; COMMISSION MAY PRESCRIBE METHODS OF KEEPING ACCOUNTS.

§ 20. That the commission is hereby authorized to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which such reports shall be made, and to require from such carriers specific answers to all questions upon which the commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same; the dividends paid, the surplus fund, if any, and the number of stockholders; the funded and floating debts and the interest paid thereon; the cost and value of the carrier's property, franchises and equipments; the number of employes and the salaries paid each class, the amounts expended for improvements each year, how expended and the character of such improvements; the earnings and receipts from each branch of business and from all sources; the operating and other expenses; the balances of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance sheet. Such report shall also contain such information in relation to rates or regulations concern-

ing fares or freights, or agreements, arrangements or contracts with other common carriers, as the commission may require; and the said commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers subject to the provisions of this act shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

ANNUAL REPORTS OF THE COMMISSION TO CONGRESS.

§ 21. That the commission shall, on or before the first day of December in each year, make a report, which shall be transmitted to congress, and copies of which shall be distributed as are the other reports transmitted to congress. This report shall contain such information and data collected by the commission as may be considered of value in the determination of questions connected with the regulation of commerce, together with such recommendations as to additional legislation relating thereto as the commission may deem necessary; and the names and compensation of the persons employed by said commission. (*Thus amended March* 2, 1889.)

PERSONS AND PROPERTY THAT MAY BE CARRIED FREE OR AT REDUCED RATES; MILEAGE, EXCURSION, OR COMMUTATION PASSENGER TICKETS; PASSES AND FREE TRANSPORTATION TO OFFICERS AND EMPLOYES OF RAILROAD COMPANIES; PENDING LITIGATION NOT AFFECTED BY ACT—JOINT INTERCHANGEABLE FIVE-THOUSAND-MILE TICKETS. AMOUNT OF FREE BAGGAGE—PUBLICATION OF RATES—SALE OF TICKETS—PENALTIES.

§ 22. That nothing in this act shall prevent the carriage, storage or handling of property free or at reduced rates for the United States, state or municipal governments, or for charitable purposes, or to or from fairs and expositions for exhibition thereat, or the free carriage of destitute and homeless persons transported by charitable societies, and the necessary agents employed in such transportation, or the issuance of mileage, excursion or commutation passenger tickets; nothing in this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, or to municipal governments for the transportation of indigent persons, or to inmates of the National Homes or State Homes for Disabled Volunteer Soldiers, and of Soldiers and Sailors' Orphan Homes, including those about to enter and those returning home after dis-

charge, under arrangement with the boards of managers of said homes; nothing in this act shall be construed to prevent railroads from giving free carriage to their own officers and employes, or to prevent the principal officers of any railroad company or companies from exchanging passes or tickets with other railroad companies for their officers and employes; and nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: *Provided*, That no pending litigation shall in any way be affected by this act. *Provided further*, That nothing in this act shall prevent the issuance of joint interchangeable five-thousand-mile tickets, with special privileges as to the amount of free baggage that may be carried under mileage tickets of one thousand or more miles. But before any common carrier, subject to the provisions of this act, shall issue any such joint interchangeable mileage tickets with special privileges, as aforesaid, it shall file with the Interstate Commerce Commission copies of the joint tariffs of rates, fares, or charges on which such joint interchangeable mileage tickets are to be based, together with specifications of the amount of free baggage permitted to be carried under such tickets, in the same manner as common carriers are required to do with regard to other joint rates by section six of this act; and all the provisions of said section six relating to joint rates, fares, and charges shall be observed by said common carriers and enforced by the Interstate Commerce Commission as fully with regard to such joint interchangeable mileage tickets as with regard to other joint rates, fares, and charges referred to in said section six. It shall be unlawful for any common carrier that has issued or authorized to be issued any such joint interchangeable mileage tickets to demand, collect, or receive from any person or persons a greater or less compensation for transportation of persons or baggage under such joint interchangeable mileage tickets than that required by the rate, fare, or charge specified in the copies of the joint tariff of rates, fares, or charges filed with the Commission in force at the time. The provisions of section ten of this act shall apply to any violation of the requirements of this proviso.

JURISDICTION OF UNITED STATES COURTS TO ISSUE WRITS OF PEREMPTORY MANDAMUS COMMANDING THE MOVEMENT OF INTERSTATE TRAFFIC OR THE FURNISHING OF CARS OR OTHER TRANSPORTATION FACILITIES.

(*New section.*) That the circuit and district courts of the United States shall have jurisdiction upon the relation of any person or persons, firm, or corporation, alleging such violation by a common carrier, of any of

the provisions of the act to which this is a supplement and all acts amendatory thereof, as prevents the relator from having interstate traffic moved by said common carrier at the same rates as are charged, or upon terms or conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ or writs of mandamus against said common carrier, commanding such common carrier to move and transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ: *Provided*, that if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of money into the court, or otherwise, as the court may think proper, pending the determination of the question of fact: *Provided*, that the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this act or the act to which it is a supplement. (*Added March* 2, 1889.)

ATTENDANCE AND TESTIMONY OF WITNESSES AND PRODUCTION OF DOCUMENTARY EVIDENCE COMPULSORY BEFORE THE COMMISSION, AND IN ANY CASE, CRIMINAL OR OTHERWISE, IN THE COURTS; PENALTIES; FINE OR IMPRISONMENT, OR BOTH.

That no person shall be excused from attending and testifying or from producing books, papers, tariffs, contracts, agreements and documents before the Interstate Commerce Commission, or in obedience to the subpœna of the commission, whether such subpœna be signed or issued by one or more commissioners, or in any cause or proceeding, criminal or otherwise, based upon or growing out of any alleged violation of the act of Congress, entitled "An act to regulate commerce," approved February fourth, eighteen hundred and eighty-seven, or of any amendment thereof on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to a penalty or forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing, concerning which he may testify, or produce evidence, documentary or otherwise, before said commission, or in obedience to its subpœna, or the subpœna of either of them, or in any such case or proceeding: *Provided*, that no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

Any person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, tariffs, contracts, agreements and documents, if in his power to do so, in obedience to the subpœna or lawful requirement of the commission shall be guilty of an

offense, and upon conviction thereof by a court of competent jurisdiction shall be punished by fine not less than one hundred dollars nor more than five thousand dollars, or by imprisonment for not more than one year or by both such fine and imprisonment. (*Approved February* 11, 1893.)

AUTOMATIC COUPLERS AND CONTINUOUS BRAKES.

AN ACT to promote the safety of employes and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their cars with automatic couplers and continuous brakes and their locomotives with driving-wheel brakes, and for other purposes.

That from and after the first day of January, eighteen hundred and ninety-eight, it shall be unlawful for any common carrier engaged in interstate commerce by railroad to use on its line any locomotive engine in moving interstate traffic not equipped with a power driving-wheel brake and appliances for operating the train-brake system, or to run any train in such traffic after said date that has not a sufficient number of cars in it so equipped with power or train brakes that the engineer on the locomotive drawing such train can control its speed without requiring brakemen to use the common hand brake for that purpose.

§ 2. That on and after the first day of January, eighteen hundred and ninety-eight, it shall be unlawful for any such common carrier to haul or permit to be hauled or used on its line any car used in moving interstate traffic not equipped with couplers coupling automatically by impact, and which can be uncoupled without the necessity of men going between the ends of the cars.

§ 3. That when any person, firm, company, or corporation engaged in interstate commerce by railroad shall have equipped a sufficient number of its cars so as to comply with the provisions of section one of this act, it may lawfully refuse to receive from connecting lines of road or shippers any cars not equipped sufficiently, in accordance with the first section of this act, with such power or train brakes as will work and readily interchange with the brakes in use on its own cars, as required by this act.

§ 4. That from and after the first day of July, eighteen hundred and ninety-five, until otherwise ordered by the Interstate Commerce Commission, it shall be unlawful for any railroad company to use any car in interstate commerce that is not provided with secure grab irons or handholds in the ends and sides of each car for greater security to men in coupling and uncoupling cars.

§ 5. That within ninety days from the passage of this act the American Railway Association is authorized hereby to designate to the Interstate Commerce Commission the standard height of drawbars for freight cars, measured perpendicular from the level of the tops of the rails to the centers of the drawbars, for each of the several gauges of railroad in use in

the United States, and shall fix a maximum variation from such standard height to be allowed between the drawbars of empty and loaded cars. Upon their determination being certified to the Interstate Commerce Commission, said commission shall at once give notice of the standard fixed upon to all common carriers, owners, or lessees engaged in interstate commerce in the United States by such means as the commission may deem proper. But should said association fail to determine a standard as above provided, it shall be the duty of the Interstate Commerce Commission to do so, before July first, eighteen hundred and ninety-four, and immediately to give notice thereof as aforesaid. And after July first, eighteen hundred and ninety-five, no cars either loaded or unloaded, shall be used in interstate traffic which do not comply with the standard above provided for.

PENALTY FOR VIOLATION OF THE PROVISIONS OF THIS ACT.

§ 6. That any such common carrier using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of this act, shall be liable to a penalty of one hundred dollars for each and every such violation, to be recovered in a suit or suits to be brought by the United States district attorney in the district court of the United States having jurisdiction in the locality where such violation shall have been committed, and it shall be the duty of such district attorney to bring such suits upon duly verified information being lodged with him of such violation having occurred. And it shall also be the duty of the Interstate Commerce Commission to lodge with the proper district attorneys information of any such violations as may come to its knowledge: *Provided*, that nothing in this act contained shall apply to trains composed of four-wheel cars or to locomotives used in hauling such trains.

POWER OF INTERSTATE COMMERCE COMMISSION TO EXTEND TIME OF CARRIERS TO COMPLY WITH THIS ACT.

§ 7. That the Interstate Commerce Commission may from time to time upon full hearing and for good cause extend the period within which any common carrier shall comply with the provisions of this act.

EMPLOYES NOT DEEMED TO ASSUME RISK OF EMPLOYMENT.

§ 8. That any employe of any such common carrier who may be injured by any locomotive, car or train in use contrary to the provision of this act shall not be deemed thereby to have assumed the risk thereby occasioned, although continuing in the employment of such carrier after the unlawful use of such locomotive, car or train had been brought to his knowledge. (*Approved March* 2, 1893.)

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